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R E A D I N G S

U P O N T H E

Statute Law,

A L P H A B E T I C A L L Y D I G E S T E D.

Wherein the

Most Obscure and Difficult Points

Are Clear'd up and Illustrated by

Resolutions and adjudg'd Cases,

Taken from the

Best AUTHORITIES Extant.

V O L. V.

By a GENTLEMAN of the *Middle-Temple.*

L O N D O N:

Printed for the Author, and are to be sold by
D. BROWN, T. OSBORN, W. MEARS, and F. CLAY
MDCCXXV.





READINGS

Upon the
Statute Law.

V O L. V.

Poor.



IT shall be lawful for the Justices of Peace 14 Eliz. c. 5. of every County, at their General Quarter-Sessions to tax every Parish every Parish within their County towards the Relief for the Relief of poor Prisoners, so that such Taxation of poor Prisoners do not exceed 6 d. or 8 d. a Week out of Prisoners Quarter-Sessions. And the Church-wardens of every Parish shall, every Sunday, levy the same, and once every Quarter pay to the High-Constable, or Head Officer of the Town, Parish, Hundred, Riding, or Wapentake, all such Sums as their Parish shall be rated and taxed at: And the said High Constables and Head Officers shall pay over such Sums, at every Quarter-Sessions, to such sufficient Person dwelling nigh the said Goals, as shall be appointed Collector by the said Quarter-Sessions; and such Collector shall Weekly distribute all such Sums as he shall receive for Relief of such Prisoners; and all such Church-wardens, Constables, Head Officers, or Collectors, as shall make Default in the Premises, shall forfeit 5 l. one Moiety.

V O L. V.

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ety to the Crown, and the other to the Relief of such Prisoners. *Stat. 14 Eliz. cap. 5.*

39 Eliz. c. 4. It shall be lawful for the Justices of Peace of any Quarter-Sessions to erect Houses of Correction. County or City in *England or Wales*, at their respective Quarter Sessions, to give Orders to erect, and cause to be erected, one or more Houses of Correction within their several Counties or Cities: for the doing and performing whereof, and providing Stocks of Money, and all other Things necessary for the same, and for raising and governing same, and for Correction of Offenders committed thither, such Orders shall be in Force, and duly executed, as the said Justices shall from Time to Time make or set down. *Stat. 39. Eliz. cap. 4.*

Provided, that the Justices of Peace of any County at large, shall not intermeddle in any City or Town Corporate, having Justices of Peace of their own, for the Execution of any Branch of this Act, concerning any Offence or Cause arising within the Precincts or Jurisdiction of such City or Town Corporate; but the Justices of Peace, Mayors, and other Head Officers, of such Cities and Towns Corporate, where there are such Justices of Peace, shall put this Act in Execution within their respective Limits, as the Justices of Peace of any County may within their Counties at large. *Ib.*

43 Eliz. c. 2. The Church-wardens of every Parish, and four, three, Overseers of or two substantial Housekeepers, according to the Largeness of the Parish, shall be nominated Yearly in *Easter* Week, or within one Month after, by two or more Justices of Peace of the County (*Quor' Un'*) dwelling near the Parish, under their Hands and Seals, to be Overseers of the Poor of their respective Parishes; and they, or the major Part of them, shall from Time to Time, with the Consent of two such Justices, set to work the Children of all such whose Parents shall not be deemed by them able to maintain their Children; and also set to Work all such Personss, married or unmarried, who have no Means to maintain themselves, and use no Trade to get their Living by; and also shall raise Weekly, or otherways, by a Tax on every Inhabitant, Parson, Vicar, and Occupier of Lands, Houses, Tythes, Coal Mines or Underwoods, such a Sum as they shall think fit, for purchasing a Stock of Flax, Hemp, Wool, Iron, or other Stuff, to set the Poor on Work; and also such Sums as shall be necessary for the Relief of the Lame, Old, Blind and Impotent, and such other Poor as are not able to Work, and for putting out poor Children Apprentices, and to execute all other Things, as well for disposing of the

Who shall set the Poor to Work,

and Tax their Parishes,

for raising a Stock, and relieving the Poor.

the said Stock, as otherwise concerning the Premises.
Stat. 43 Eliz. cap. 2.

And the said Church-wardens or Overseers so nominated, Officers to or such of them as shall have no just Excuse, to be allowed meet Monthly by two such Justices as aforesaid, shall meet once a ly. Month at least, in their Parish Church, upon a Sunday after Evening Service, and there take Order in the Premises; and within four Days after the End of their Year, and after other Overseers nominated, shall yield to two such Justices, an Account of all Sums received by And Account, them, or rated, assessed, and not received; and also of all Stock in their Hands, or in the Hands of the Poor to Work; and of all Things concerning their Office, and shall deliver over to the new Church-wardens and Overseers, all such Sums as shall be in their Hands, on Pain that every one absenting himself from such Monthly Meeting at aforesaid, or being negligent in his Office, or in the Execution of the said Orders made by the Assent of such Justices as aforesaid, shall forfeit 20 s. *lb.*

And if the said Justices find, that the Inhabitants of any Parish are not able to raise Money sufficient for the of other Purposes aforesaid, then such two Justices may, as aforesaid, Tax, Rate, and Assess any other of other Parishes, relieve Pa- or out of any Parish within the same Hundred, to pay rishes unable. such Sums to the Church-wardens and Overseers of the said poor Parish, as they shall think fit: And if the Hundred shall not be thought able to relieve them, then the Justices, at their Quarter-Sessions, shall Rate and Assess as aforesaid, any other of other Parishes, or out of any Parish within the County, for the Purposes aforesaid. *lb.*

And it shall be lawful for the present, or subsequent Sums assessed Church-wardens or Overseers, by Warrant from two such to be levied Justices, to levy the said Sums of Money, and all Arrear by Warrant ages, on such as shall refuse to pay the Assessment, by of two Justices, such Justices may commit the Offender to the County Goal, until Payment be made; and the said Justices may send to the House of Correction, or County Goal, such Persons as do not set themselves to Work according to Appointment: And may commit to Prison such Church-wardens and Overseers as shall refuse to Account, until they have made a true Account, and paid such Sums as shall be remaining in their Hands. *lb.*

And such Church-wardens, and the Overseers, or the Overseers to major Part of them, by the Assent of two such Justices, bind poor may bind such Children as aforesaid Apprentices, until Children Ap- each Boy shall attain the Age of Twenty four Years, prentices.

And build
Houses on the
Waste for the
impotent
Poor.

and every Girl the (Age of twenty one Years, or till she marry: And it shall be lawful for the Church-wardens and Overseers, or the major Part of them, by Leave of the Lord of the Mannor, where any common or waste Ground shall be within their Parish, upon Agreement beforehand with such Lord, under his Hand and Seal, or otherways, or according to any Order of the Justices in their Quarter-Sessions, by like Leave of the Lord, do erect upon such common or waste Ground, at the Charge of the Parish, Hundred, or County, to be taxed as aforesaid, Dwelling-Houses for the impotent Poor, and to place Inmates, or more Families than one, in any of them, notwithstanding the 31 Eliz cap. 7. against erecting of Cottages; which Houses shall not afterwards be used for the Habitation of any other, but the impotent Poor of the said Parish, upon the Pains contained in the said last mentioned Act. *Ib.*

Provided, that if any Person be grieved by any Assessment, or other Act done by the Church-wardens, Overseers, or Justices of Peace aforesaid, the Justices in their Quarter-Sessions may take such Orders therein as they shall think fit, which shall conclude all Parties. *Ib.*

Fathers, &c.
to relieve
their Chil-
dren, and
Children their
Parents.

And the Father and Grandfather, Mother and Grandmother, and the Children of every poor, old, and impotent Person, being of sufficient Ability, shall relieve every such poor Person, in such Manner, and according to such Rates as the Justices of Peace of the County where such sufficient Person dwells, at their Quarter-Sessions shall assess, on Pain of 20 s. for every Month they fail therein. *Ib.*

Mayors, &c.
of Corpora-
tions, the
same Power
as Justices.

And the Mayors, Bailiffs, and other Head Officers of Corporations, being Justices of Peace, shall have the same Authority within their respective Precincts, as well in as out of Sessions, as is herein given to Justices of Peace of any County, or to any two or more of them, to execute this Act; and no other Justices of Peace shall intermeddle there. And every Alderman of London, within his Ward, may execute so much as is appointed by this Act to be done by one or two Justices of Peace of any County. *Ib.*

Parishes in se-
veral Pre-
cincts.

And where any Parish extends into more Counties than one, or lies Part within a Corporation, and Part without, the Justices and Head Officers respectively, shall intermeddle only with that Part of the said Parish as lies within their Limits; but the Churchwardens and Overseers of such Parishes as extend into several Limits, shall, without dividing themselves, jointly execute their Office, and exhibit one Account to the Head Officer of the Corporation,

Corporation, and another to the said two Justices of Peace as aforesaid. *Ib.*

And if in any Place there happen to be no such Nominations of Overseers yearly, as aforesaid, every Justice of appointing the Division where such Default shall happen, and every Overseer, every Mayor, Alderman, and Head Officer of a Corporation where such Default shall be, shall forfeit 5 *l.* to the Use of the Poor of the Parish or Corporation where such Offence shall be committed, to be levied on their Goods, by Warrant from the Quarter-Sessions.

And the Justices of Peace of every County or Corporation shall tax the Parishes in their General Sessions to be holden next after the Session of *Easter* Yearly, shall Rate every Parish to pay such a Sum for Rate Weekly Sum as they shall think fit, so that no Parish shall pay above 6 *d.* or under a half penny Weekly; and so as the Rate and Hospital Sum taxed on the County, do not amount to above the Rate of 2 *d.* one Parish with another; which Sum shall be assessed by the Parishioners themselves, or in their Default, by the Church-wardens and petty Constables, or the major Part of them; or in their Default, by the order of such Justice or Justices as shall dwell in or next the said Parish. *Ib.*

And if any Person refuse to pay the Sum so taxed, the Church-wardens and Constables, or any of them, or in their Default, any Justice of Peace may levy the same by Distress and Sale, and in Default of Distress, such Justice may commit the Offender till the same be paid. *Ib.*

And the Justices of Peace, at their General Quarter-Sessions, shall, at the Time of such Taxation, set down what Sum of Money shall be sent Quarterly out of every County or Corporation, for the Relief of the poor Prisoners of the *King's Bench* and *Marshalsea*; and of such Hospitals and Alms-Houses as shall be in their County, so as there be sent out of every County Yearly 20 *s.* at least to each of the said Prisons of the *King's Bench* and *Marshalsea*, which Sum shall be rateably assessed upon every Parish, and collected by the Church-wardens, and paid over to the High Constable of the Division, ten Days before the End of every Quarter: And such Constable, at every Quarter-Sessions, shall pay over the same to such Persons as shall be appointed Treasurers of the County And by him by the said Justices. Such Treasurers to continue for one Year only, and to give up their Accounts at the Quarter-Sessions after *Easter* Yearly, to the succeeding Treasurers, which said Treasurers shall pay over the same to the Lord Chief Justice (or eldest Judge of the *King's Bench*, and Knight Marshal, to the Use aforesaid, equally

to be divided between them; and if any Church-warden or High Constable, his Executors or Administrators, shall fail in Payment, as aforesaid, he shall forfeit 10 s. and every High Constable 20 s. to be levied by the Treasurer, by Distress and Sale, to be applied to the charitable Uses mentioned in this Act. *Ib.*

Surplusage of the County Stock to be distributed. And the Surplusage of Money remaining in the County Stock, shall be distributed by the Justices in their Quarter-Sessions, to the Use of the Hospitals in their County, and to those who shall sustain Losses by Fire, Water, or other Casualties, and for the Relief of the Poor, as the said Justices shall appoint. *Ib.*

Pain of Treasurer's Misbehaviour. And if any Treasurer shall refuse to take upon him the said Office, or to give Relief or Account, according to the Appointment of the said Justices, then the Quarter-Sessions, or on their Default, Justices of Assize shall fine such Treasurer as they shall see fit, such Fine not to be under 3 l. and to be levied by Sale of his Goods, on the Prosecution of two Justices of Peace whom the Sessions shall authorise for that Purpose.

Provido, that the Inhabitants of the Island of *Fowlness* in *Essex* shall act as a Parish. *Ib.*

And if any Person shall be prosecuted for what he shall do in Pursuance of this Act, he may plead the General Issue, and give the special Matter in Evidence; and in Case the Plaintiff be Nonsuit, &c. the Defendant shall recover treble Damages, with Costs. *Ib.*

7 Jac. 1. c. 4. There shall be erected, built, or otherwise provided, in One or more every County of *England* and *Wales*, where there is not Houses of Correction to be one already, one or more fit and convenient Houses of Correction, with a convenient Backside thereunto adjoined, together with Mills, Turns, Cards, and such like erected in every County. necessary Implemenss, for the setting to Work of Rogues, Vagabonds, Sturdy Beggars, and other idle and disorderly Persons. Such Houses to be erected or provided in some convenient Place or Town in every County; and shall be purchased, convey'd, or assured to such Persons as the Court of Quarter-Sessions shall direct, upon Trust, and to the Intent the same shall be used and employ'd for the Purposes aforesaid.

And Governours appointed by the Sessions. And the Court of Quarter Sessions, next after the erecting or providing such Houses, and so from Time to Time, shall nominate and appoint one or more fit Persons, to be Governor or Master of the said Houses, who shall have Power to set such Rogues, Vagabonds, idle and disorderly Persons as shall be brought thither, to work and labour, being able, for such Time as they shall remain in the said House of Correction; and to punish them, by putting

putting Fetters upon them, and by moderate Whipping. Persons committed And the said Rogues, Vagabonds, and idle Persons, while mitted thither they remain in such House of Correction, shall not be to live by chargeable to the Country, but shall have so much al-their Labour. lowed them as they shall deserve by their own Labour.

And the Masters and Governors of the said Houses of Allowance to Correction, for their Trouble in the said Service; as also the Governors for relieving those who shall happen to be sick and weak of the Work- in their Custody, shall have such Sums of Money Yearly house. allowed them, as the Court of Quarter-Sessions shall think fit to be paid them Quarterly by the Treasurer, appointed by 43 Eliz. the said Governor giving sufficient Security for the Performance of the said Service, which if the Treasurer shall neglect to do, the Governor shall have Power to levy the same, or so much thereof as shall be unpaid, in such Manner as by the said Statute the said Treasurers are authorized to levy the Weekly Sum given by the said Act, if unpaid.

And if the said Masters or Governors shall not every Quarter-Sessions yield a just Account of all such Persons as shall be committed to their Custody: Or if any of the Persons so committed, shall be troublesome to the Country by going abroad, or shall escape from the said House of Correction, before they shall be lawfully delivered, then the Court of Quarter-Sessions shall set such Fines and Penalties upon the Master and Governor, as the said Court shall think fit, which Fine shall be paid to the Treasurer of the County, and accounted for by him.

The Church-wardens and Overseers of the Poor, mentioned in the 43d of Eliz. cap. 2. may, with the Consent of two or more Justices of Peace (*Quor' Un'*) and the Poor may where there shall be no more than one Justice of Peace, set up any with the Assent of that one, set up any Trade or Occupation for the employing, or better Relief of the Poor of employing the their Parish or Township, any former Statute to the contrary notwithstanding. *Stat. 3 Car. 1. cap. 4.*

Upon Complaint made by the Church wardens and Overseers of the Poor, to a Justice of Peace, within Two Justices forty D ys after any Person's coming to settle in any may remove Tenement under the Yearly Value of 10 l. who are any Person likely to become chargeable to their Parish, it shall be within forty lawful for any two Justices of Peace, *Qu' Un'* of the Division, to remove and convey such Person to the Parish coming into where he was last legally settled, either as a Native, any Parish. Housekeeper, Sojourner, Apprentice, or Servant for forty Days at least, unless he give Security to indemnify the

the Parish, to be allowed by the said Justices. *Stat. 14 Car. 2. c. 12.*

Appeal to the Quarter-Sessions, Provided, that all Persons who are aggrieved by the Judgment of such two Justices, may appeal to the next Quarter-Sessions, who are required to do them Justice. *Ib.*

Persons may go into any Parish with a Certificate. Provided, that it shall be lawful for any Person to go into any County, Parish, or Place, to Harvest-Work, or any other Work, so that he carry a Certificate with him from the Minister of the Parish, and of one Church-warden, and one Overseer, That he hath a Dwelling in the Parish he came from, and hath left a Wife, Children, or some others there (as the Case is) and is declared an Inhabitant of such Parish; and if such Person shall not return to his Parish when his Work is finished, or shall become Sick or Impotent when he is abroad, this shall not be accounted a Settlement where he sojourns, but two Justices of Peace may convey him to the Place of his Habitation; and if such Person shall refuse to go or remain in such Parish where he of Right ought to be settled, and shall return to the Parish from whence he was moved, any Justice of Peace may commit such Offender to the House of Correction, to be punished as a Vagabond, and kept to hard Labour; and if the Church-wardens and Overseers of his Parish shall refuse to receive and provide for him, a Justice of Peace may bind any such Officer over to the Assizes or Sessions, there to be indicted for his Contempt. *Ib.*

Work-houses in London and Westminster, and the Bills of Mortality. And there shall be one or more Corporations and Work-houses in the Cities of *London* and *Westminster*, and the Boroughs, Towns and Places in *Middlesex* and *Surry*, with- in the Bills of Mortality, consisting of a President, Deputy-President, and Treasurer; and the Lord Mayor of *London* shall be President of the Corporations and Work-houses in the said City, and the Aldermen, and fifty two other Citizens, shall be chosen by the Common-Council, to be his Assistants; and the said Presidents and Assistants, may chuse a Deputy, and other necessary Officers, to execute this Act; and upon the Vacancy of any Assistant, Deputy-President, Treasurer, or other Officer, another shall be elected by the President and major Part of the Assistants. And for the City of *Westminster*, and Liberties thereof, a President, Deputy-President, Treasurer and Assistants shall be nominated by the Lord Chancellor, or the Lord Keeper. *Ib.*

And for the Places within the Bills of Mortality, in the Counties of *Middlesex* and *Surry* respectively, there shall be chosen by the Majority of the Justices of the Peace,

Peace, in their respective Quarter-Sessions, out of the Freeholders of the said Counties respectively, a President, Deputy-President, Treasurer and Assistants, for the Corporations and Workhouses in *Middlesex* and *Surry*; and upon the Vacancy of any of the Presidents, Treasurers or Assistants in *Westminster*, *Middlesex* or *Surry*, the Power to elect others shall be in the Majority of the respective Justices of Peace in their General Quarter-Sessions; and at every Quarter-Sessions they shall take an Account of the Receipts, Charges, and Disbursements of the Officers and Treasurer of such Corporations or Workhouses, and how many Poor they have employ'd, and what Stock is remaining, which President, Deputy-President, and Treasurer for the Time being respectively, shall for ever become Bodies Politick and Corporate, and have a perpetual Succession, and may sue, and be sued, by the Name of the President and Governors for the Poor of the respective Places aforesaid; and by such Name may purchase Lands not exceeding Three Thousand Pounds *per An.* without a Licence in Mortmain: And any Person may give or devise Lands, Goods, Chattels, or Sums of Money, to the Uses hereafter limited and appointed; and each respective Corporation, or any seven of them, are hereby empowered to meet and keep Courts; and the President, his Deputy, or Treasurer, are hereby required, at the Request of any four of such Corporation, at any Time to cause a Court to be summoned, and shall have Authority to appoint a common Seal. *Ib.*

And it shall be lawful for the President and Governors of any of the said Corporations, or any two of them, or any Person authorized by any two of them, to apprehend any Rogues, Vagrants, sturdy Beggars, or idle or disorderly Persons within their respective Limits, and to cause them to be set to Work in their respective Workhouses. *Ib.*

And if the President and Governors of any of the said Corporations, shall certify their Want of Stock, under their common Seal, and what Sum they think necessary for the same, to the Common-Council of *London*, the Burgeses and Justices of Peace of *Westminster*, in their Quarter-Sessions, or to the Justices of the said Counties of *Middlesex* and *Surry*, in their respective Quarter-Sessions, that thereupon the said Common-Council and Justices of Peace, in their Sessions respectively, shall from Time to Time assess such a Competent Sum of Money for the Purposes aforesaid, not exceeding one Year's Poor's Rate, and shall rate the same proportionably in their several Wards, Limits, Divisions, Hundreds and Parishes,

the Parish, to be allowed by the said Justices. *Stat. 14 Car. 2. c. 12.*

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Work-houses in London and Westminster, Boroughs, Towns and Places in Middlesex and Surry, with the Bills of Mortality. And there shall be one or more Corporations and Work-houses in the Cities of *London* and *Westminster*, and the Boroughs, Towns and Places in *Middlesex* and *Surry*, with the Bills of Mortality, consisting of a President, Deputy-President, and Treasurer; and the Lord Mayor of *London* shall be President of the Corporations and Work-houses in the said City, and the Aldermen, and fifty two other Citizens, shall be chosen by the Common-Council, to be his Assistants; and the said Presidents and Assistants, may chuse a Deputy, and other necessary Officers, to execute this Act; and upon the Vacancy of any Assistant, Deputy-President, Treasurer, or other Officer, another shall be elected by the President and major Part of the Assistants. And for the City of *Westminster*, and Liberties thereof, a President, Deputy-President, Treasurer and Assistants shall be nominated by the Lord Chancellor, or the Lord Keeper. *Ib.*

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And it shall be lawful for the President and Governors of any of the said Corporations, or any two of them, or any Person authorised by any two of them, to apprehend any Rogues, Vagrants, sturdy Beggars, or idle or disorderly Persons within their respective Limits, and to cause them to be set to Work in their respective Workhouses. *Ib.*

And if the President and Governors of any of the said Corporations, shall certify their Want of Stock, under their common Seal, and what Sum they think necessary for the same, to the Common-Council of *London*, the Burgesses and Justices of Peace of *Westminster*, in their Quarter-Sessions, or to the Justices of the said Counties of *Middlesex* and *Surry*, in their respective Quarter-Sessions, that thereupon the said Common-Council and Justices of Peace, in their Sessions respectively, shall from Time to Time assess such a Competent Sum of Money for the Purposes aforesaid, not exceeding one Year's Poor's Rate, and shall rate the same proportionably in their several Wards, Limits, Divisions, Hundreds and Parishes,

Parishes, as they shall think fit, with which Tax, if any Person find himself agrieved, as being unequally laid, he may appeal to the Justices of Peace at the next open Sessions, who shall make a final Order therein. *Ib.*

And any Alderman of *London*, or his Deputy, or the Bruggesses and Justices of Peace of *Westminster*, or any two of them; or any two Justices of Peace of *Middlesex* or *Surry*, may by their Warrant authorize the Churchwardens or Overseers of the Poor of their respective Parishes, to demand and receive such Sums as shall be assessed as aforesaid, and in Default of Payment within ten Days after Demand, on Notice in Writing, left at the Dwelling-House or Lodging of any Person so assessed, to levy the same by Distress and Sale. *Ib.*

Governors of the Workhouses within the Weekly Bills, may make By-Laws.

To be allowed by the Quarter-Sessions.

And the respective President and Governors, or any seven of them, are empowered from Time to Time to make Orders and By-Laws for the better relieving, regulating, and setting the Poor to Work, and apprehending and punishing Rogues, Vagabonds and Beggars, within their respective Limits, and for the other Matters aforesaid. *Ib.*

Provided, that such Orders and By-Laws be allowed by the Quarter-Sessions. *Ib.*

And the President and Governors of the said respective Corporations, or Workhouses, or any fourteen of them, being assembled, are empowered to elect such Officers as shall be necessary to be employ'd in the Premises, and to remove and chuse others, as they shall see fit, and to make them such Allowances out of the Stock and Revenue of the Corporation, as they see proper. *Ib.*

And all Sheriffs, Constables, and other Officers of Justice, are required to be aiding and assisting to the said Corporation, and their Officers. *Ib.*

Constable removing, two Justices may make and swear another till the Leet.

So if a Constable remain in Office above a Year.

In Case any Constable, Headborough, or Tythingman, shall die, or go out of his Parish, any two Justices may make and swear a new Constable, &c. until the Lord of the Mannor shall hold a Court-Leet, or till the next Quarter-Sessions, who shall either approve the said Officers so made and sworn, or appoint others.

And if any Officer shall remain above a Year in his Office, the Quarter-Sessions may discharge him, and put another fit Person in his Room, until the Lord of the Mannor shall hold a Court. *Ib.*

The three next Paragraphs in this Act, relate to the Apprehending of Rogues and Vagabonds, which are now expressly repealed, and other Provision made for Punishing Constables. Rogues and Vagabonds, by 12 Ann. c. 23. which the Reader will find under the Head Constable. *Ib.*

It shall be lawful for the Church-wardens and Overseers of the Poor of any Parish where a Bastard-Child shall be born, to seize so much of the Goods and Chattels, and to receive so much of the Annual Rents or Profits of the Lands of any putative Father, or lewd Mother, who shall run away and leave a Bastard-Child upon the Parish, as shall be ordered by any two Justices of Peace, towards indemnifying the Parish, and providing for such Bastard-Child, to be confirmed at the Sessions: And it shall be lawful for the said Sessions, to order the Church-wardens or Overseers, to dispose of such Goods by Sale, or otherwise, for the Purposes aforesaid, and to receive so much of the Rents and Profits of the Offenders Lands, as shall be ordered by the Sessions. *Ib.*

Any Person prosecuted for what he shall do in Pursuance of this Act, may plead the General Issue, and give the special Matter in Evidence: And if the Plaintiff be Nonsuit, &c. the Defendant shall have treble Damages. *Ib.*

Whereas the Inhabitants of Lancashire, Cheshire, Yorkshire, Derbyshire, Northumberland, Durham, Cumberland, and Westmorland, and many other Counties, by reason of the Largeness of the Parishes, cannot reap the Benefit of 43 Eliz. c. 2. for Relief of the Poor, 'tis enacted, That all the Poor and Impotent within every Township or Village within the said Counties, shall be provided for and set on Work in the Township and Village wherein they shall respectively inhabit; and there shall be Yearly chosen two or more Overseers of the Poor within every of the said Townships or Villages, who shall execute all Powers for the Relief of the Poor therein, and shall suffer such Pains and Forfeitures for their Neglect, as are appointed by the said Act of 43 Eliz. *Ib.*

And the Justices of Peace of the said Counties, are empowered to levy Money, and execute all other Acts in every such Township or Village, as they might in any Parish by the said Act. *Ib.*

The Rights and Privileges of the Dean and Chapter of Westminster saved. *Ib.* 19 Car. 2. c. 4.

Where there is not any sufficient Provision yet made for the Relief and Setting to Work of poor Persons committed to Goal for Felony, who many Times perish before themselves.

19 Car. 2. c. 4.
Quarter-Sessions to find Materials for setting poor Felons to Work in Prison, and maintain themselves.

fore their Trial, for Remedy thereof it is enacted, That the Court of Quarter-Sessions, if it shall find it needful, may provide a Stock of Materials for setting poor Prisoners on Work, in such Manner, and by such Ways as other County Charges are levy'd and raised, and to appoint Persons to oversee and set such Prisoners on Work, and to make such Orders as they shall think fit, for Punishment of Neglects, and other Abuses, and for bestowing the Profits the Prisoners shall gain by their Labour, for their Relief. 19 Car. 2. c. 4.

No Parish to be rated above 6 d. a Week. Sheriffs, with Consent of three Justices of Peace, may on Emergencies remove their Prisoners,

Provided, that no Parish be rated above 6 d. a Week towards the Premises. *ib.*

And whereas at some Times, by Occasion of the Plague, and at others, by the great Number of Prisoners, infectious Diseases have happened among them, whereby the Judges and Jurors have, upon their Attendance at the Trials of Prisoners, been infected, and many of them died; and sometimes the Infection has spread into the Country, for Remedy whereof it is enacted, That any Sheriff, or Person having the Custody of the County Goal, with the Consent of three or more Justices of Peace, may, if they find it necessary, upon emergent Occasions, provide other safe Places for the Removal of Sick, or other Persons out of the ordinary Goal, where such Prisoners shall be kept in the same Manner, and convey'd to the Goal-Delivery, as if they were in their ordinary and usual Goals. *ib.*

And Head Officers of Corporations with like Consent.

Provided, that the Mayor, Bailiff, and other Head Officer, or any other Person, having the Custody of the common Goal within any Corporation, shall, with the Advice of three or more Justices of Peace of such Corporation, *Quor' Un'*, have the like Power to remove their Prisoners into some other convenient Place within their Jurisdiction, and to raise a Stock, after the same Rates and Proportions as Counties are herein before allowed to do. *ib.*

Devon.

Proviso for establishing a Workhouse at Exeter for the County of Devon, to which Criminals may be committed, whose Crimes admit of the Benefit of Clergy, and a Salary appointed to the Governor and Ordinary. *ib.*

40 Jac. 2. c. 17. make a Settlement. 3 & 4 W. & M. c. 11. Forty Days to commence from Notice

The said Act of 13 & 14 Car. 2. (except what relates to the Incorporations of Workhouses in the Weekly Bills) continued for seven Years, and the forty Days to make a Settlement, to commence from the Delivery of Notice to the Church-wardens. 1 Jac. 2. c. 17. The Acts of 13 & 14 Car. 2. c. 12. and 1 Jac. 2. c. 17. so far as it relates to the Relief of the Poor, revived and continued: And it is enacted, That the forty Days

Days intended to make a Settlement by the said Act of 13 & 14 Car. 2. shall be accounted from the Publication of Notice in Writing in the Church, of any Persons coming to inhabit in any Parish. Stat. 3 & 4 W. & M. c. 11.

Provided, that no Soldier, Seaman, or Workman in Soldiers and their Majesties Service, shall gain a Settlement by such Seamen, Notice, until dismissed from the Service. *Ib.*

And every Church-warden and Overseer, who shall neglect to publish such Notice in the Church, the next Sunday after he receives it from the Party coming to inhabit in their Parish, or to register the same, shall forfeit 40 s. to the Party grieved, to be levy'd by Distress and Sale, by Warrant from one Justice of Peace. *Ib.*

Provided, that if any Person shall come to inhabit in Executing any Parish, and for himself execute any publick Annual any Parish Office, during one whole Year, or shall be charged and Office, or pay- pay publick Taxes to the said Parish, it shall be deemed a ing to the legal Settlement without Notice. *Ib.* Rates, gains a

And if any unmarried Person, not having Child or Settlement. Children, shall be hired into any Service for one Year, As does the such Service shall be deemed a Settlement without No being hired for rice as aforesaid. *Ib.* and serving a

And if any Person shall be bound Apprentice, and in- Year, habit in any Parish, such Binding and Habitation shall And being be a Settlement without Notice. *Ib.* Apprentice.

Persons grieved by the Determination of a Justice, or Appeal to the Justices of Peace, may appeal to the next Quarter-Ses- next Sessions: sions, whose Judgment shall be final. *Ib.*

And where any Person shall be removed by Vertue of Pain of not this Act, by Warrant from two Justices, the Church receiving one wardens and Overseers of the Parish whither he is sent, removed by shall receive him, on Pain of forfeiting 5 l. to the Poor, Order of two of the Parish from whence he was sent, to be levy'd by Justices. Distress and Sale, by Warrant from one Justice, and in Default of a Distress, to be committed to the common Goal forty Days, without Bail, Proof to be by two Wit- nesses, upon Oath, before one Justice. *Ib.*

Persons aggrieved by the Judgment of the said two Appeal. Justices, may appeal to the next Quarter-Sessions of the County, &c. from which the Party was removed. *Ib.*

There shall be kept in every Parish a Book, wherein Collection the Names of all Persons who receive Collection, shall be Book. registred, and the Time they were first admitted to have Relief, and the Occasion : And the Parishioners shall meet at a Vestry Yearly, in Easter-Week, or as often To be renew- as shall be thought convenient, and the said Book shall ed Yearly. be produced, and the Persons called over who receive Collection,

Collection, and the Reasons of their taking Relief examined, and a new List made, of such Persons as they shall think fit to allow Collection to, and no other Persons shall be allowed to receive Collection, but by Authority under the Hand of one Justice, or by Order of the Justices at their Quarter-Sessions, except in Cases of Pestilential Diseases, Plague, or Small Pox. *ib.*

Parishioners
to be Witnesses.

And that Church-wardens and Overseers who mispend the publick Money, may be more easily detected, the Evidence of any of the Parishioners, except those who receive Alms, shall be admitted in all Courts where an Action is brought for the Recovery of Money mispent or taken by Church-wardens or Overseers. *ib.*

8 & 9 W. 3.
c. 30.
Persons bringing a Certificate, to be sent back when they become chargeable.

From and after the first of May 1697, if any Person that shall come into a Parish or Place, to inhabit and reside, shall at the same Time deliver to the Church-wardens or Overseers of the Poor, a Certificate under the Hands and Seals of the Church-wardens and Overseers of the Poor of any other Parish or Place, or the major Part of them (or of the Overseers of the Poor of the Place where there are no Church-wardens) attested by two Witnesses, thereby acknowledging the Person mentioned in the said Certificate to be an inhabitant legally settled in that Parish or Place from whence he came, such Certificate having been allowed and subscribed by two or more Justices of Peace of the County or Place from whence such Certificate comes, shall oblige the said Parish or Place to receive and provide for the Persons mentioned in the said Certificate, together with his or her Family, as Inhabitants of that Parish, when ever they shall happen to become chargeable to, or be forced to ask Relief of the Parish or Place to which such Certificate was given, and then, and not before, it shall be lawful for such Person and his Children (though born in that Parish, not having acquired a legal Settlement there) to be removed to and settled in the Parish or Place from whence such Certificate was brought. *Stat. 8 & 9 W. 3. c. 30.*

Badge to be worn by those who receive Collection.

Every Person who shall be upon the Collection, and receive Relief of any Parish or Place, and his Wife and Children cohabiting in the House (such Child as shall be permitted to stay at Home to attend an impotent Parent excepted) shall upon the Shoulder of the Right Sleeve of the uppermost Garment, in an open and visible Manner, wear such Badge or Mark as hereafter mentioned, *viz.* a Roman P, with the first Letter of the Name of the Parish or Place whereof he or she is an Inhabitant, cut either in red or blue Cloth, as the Church-wardens and Overseers shall direct. *ib.*

And

And if any poor Person neglect or refuse to wear such Badge, or Mark, as aforesaid, any Justice of Peace of the County or Place may punish such Offence, either by ordering his or her Allowance, on the Collection, to be abridged, suspended, or withdrawn; or by committing the Offender to the House of Correction, to be whipt and kept to hard Labour, not exceeding 21 Days. *lb.*

And if any Churchwarden or Overseer shall relieve any such poor Person, not wearing a Badge, being convicted by the Oath of one Witness, before a Justice of Peace, he shall forfeit 20 s. to be levy'd by Distress and Sale, by Warrant from such Justice, one Moiety to the Informer, and the other to the Poor where the Offence was. *lb.*

The Justices of Peace, at their General or Quarter Sessions to Sessions, upon any Appeal concerning the Settlement of give Costs on a poor Person, or upon Proof of Notice of any such Appeal, to have been given by the proper Officer to the Churchwardens or Overseers of any Parish, or Place, (tho' such Appeal is not prosecuted) shall, at the same Quarter-Sessions, award to the Party, in whose Behalf such Appeal shall be determined, or to whom such Notice appears to be given, such Costs as the said Justices shall think reasonable. And if the Person order'd to pay such Costs happen to live out of the Jurisdiction of the said Court, any Justice of Peace of the County or Place where such Person shall inhabit, is hereby required, upon Request to him made, and a Copy of the Order for such Costs produced, and proved by some credible Witness, to cause the Money mentioned in the Order, to be levy'd by Distress and Sale; and in Default of a Distress, to commit the Person to the common Goal of the County, or Liberty, there to remain for 20 Days. *lb.*

No unmarried Person, hired into a Parish or Town-Hir'd Servant ship for a Year, shall be adjudged to have gained a Settlement must serve his ment, unless such Person shall abide in the same Service Year to gain a Settlement. during the Space of one whole Year.

An Appeal against any Order for the Removal of a Appeal to the poor Person, shall be determined at the General or Quarter-Sessions for the County or Place, from whence such sions from poor Person is removed, and not elsewhere. *lb.* whence a Per-

Provided, that nothing in this Act shall be construed son is re- to hinder the Justices of Peace in the Liberty of *St. Albans*. moved. *St. Albans*, from hearing and determining any Appeals for *St. Albans*. the Settlement of the Poor in their Quarter-Sessions.

No Person, coming into any Parish by Certificate, 9 & 10 W. 34 shall be adjudged by any Act to have gained a legal c. 11. Settlement there, unless he *bona fide* take a Lease or Tenement

nement of 10 *l.* per *Ann.* or execute some annual Office in such Parish. *Stat. 9 & 10 W. 3. cap. 11.*

12 Ann. c. 18. The said Act of 13 & 14. *Car. 2. c. 12.* for the better Relief of the Poor of this Kingdom is made perpetual. And it is further enacted, that if any Person, who shall be an Apprentice or hired Servant to any Person, who shall come or reside in any Parish, Township, or Place, by Means of a Certificate, and shall not have afterwards acquired a legal Settlement, such Apprentice, or hired Servant, shall not gain a Settlement in the Parish or Place which his Master came into by Virtue of a Certificate; but such Apprentice and Servant shall have his Settlement in such Parish, or Place, as he would have had, if he had not been bound Apprentice, or hired. *Stat. 12 Ann. c. 18.*

5 Geo. c. 8. Whereas divers Persons go from their Abodes, leaving their Wives or Children a Charge upon the Parish where they were born, or last legally settled, altho' they have Estates which might afford a Provision for them, it is hereby enacted, that it shall be lawful for the Churchwardens, or Overseers of the Poor, where any Wife, Child, or Children, shall be so left on the Parish, by Warrant from any two Justices of Peace, to seize so much of the Goods and Chattels, and to receive so much of the annual Rents and Profits of the Lands and Tenements of such Husband, Father, or Mother, as such two Justices shall order, towards the Discharge of the Parish, or bringing up and providing for such Wife, Child, or Children; which Order being confirmed at the next Quarter-Sessions, the said Sessions may make an Order, for the said Churchwardens, or Overseers, to dispose of such Goods and Chattels, or so much of them as the Court shall think fit, and to receive so much of the Rents and Profits of such Lands and Tenements as the Court shall order for the Purposes aforesaid. *Stat. 5 Geo. c. 8.*

And the Churchwardens and Overseers shall be accountable to the Quarter-Sessions, for such Money as they shall receive by Virtue of this Act. *Ib.*

9 Geo. c. After the 25th of *March, 1723.* No Justice of Peace shall order Relief to any poor Person, until Oath be made before him of some Matter, which he shall judge a reasonable Cause for giving such Relief; and that such a Person hath apply'd for Relief to the Parishioners at some Vestry, or to two Overseers of the Poor of his Parish, and was refused Relief; and until such Justice hath summoned two of the Overseers to shew Cause why such Relief should not be given, and the Person so summoned

moned have been heard, or made Default in appearing.

Stat. 9 Geo. c.

And the Person to whom any such Justice of Peace None to be re- shall order Relief, shall be enter'd in the Book kept by lieved who the Parish, as one of those who is to receive Collection, are not in the as long as the Cause of such Relief continues. And no Collection Officer of any Parish, except on sudden and emergent Book. Occasions, shall bring to Account any Money he shall give to any poor Person of his Parish, who is not so register'd in such Parish Book, on Pain of 5 *l.* to be le- vy'd by Distress and Sale, by Warrant from two or more Justices of Peace, which Penalty shall be applied to the Use of the Poor of his Parish, by the Direction of the said Justices. *lb.*

And if a Justice of Peace of any County shall dwell Justice of in a City, or Precinct, that is a County of it self, Peace of a situate within the County at large, for which he shall County at be appointed Justice of Peace, it shall be lawful for him large, residing to grant Warrants, take Examinations, and make Orders in a City for any Matters at his own Dwelling-house, altho' such which is a House be out of the County where he is authorized County of it to act as a Justice of Peace, and in some City or other self, may Precinct adjoining, which is a County of it self. *lb.* grant War-

Provided, that this Act shall not extend to impower rants at his Justices of Peace for Counties at large to hold their Ge- Dwelling- neral Quarter-Sessions in Cities or Towns that are Coun house. ties of themselves, or to impower Justices of Peace, Sheriffs, Bailiffs, Constables, or other Peace Officers of Counties at large, to act in any Matters arising within Cities or Towns, which are Counties of themselves. *lb.*

And it shall be lawful for the Churchwardens and Parishes im- Overseers of the Poor of any Parish or Place, with the power'd to set Consent of a Majority of the Parishioners or Inhabitants, up Work- at a Vestry or other publick Meeting assembled, upon houses. usual Notice thereof first given, to purchase or hire any House or Houses in the same Parish or Place, and to con- tract with any Persons for the Lodging, Maintaining, and Employing of all such Poor there as shall desire Relief, and to maintain and employ all such poor Persons, and take the Benefit of their Work, who shall be kept in any such Houses, for the better Maintenance of such poor Persons. And Poor re- And where any poor Person shall refuse to be lodged and fusing to be maintained in such House, he shall be put out of the kept there, to Parish Books, and shall not be entitled to receive any receive no Collection. And where any Parish or Township shall be Collection. too small to purchase or hire such Houses, it shall be Two Parishes lawful for two or more of such Parishes or Townships, may join for with the Consent of a Majority of the Parishioners at a a House.

Vestry, and with the Approbation of a Justice of Peace dwelling in or near the Place, under his Hand and Seal, to unite in purchasing such House; and there to keep and employ the Poor of their respective Parishes, so uniting, and to take the Benefit of their Work for the better Maintenance of them. And if any poor Person of such united Parishes shall refuse to be kept in such House, he shall be put out of the Collection Book, and disabled to ask Relief. And it shall be lawful for the Churchwardens and Overseers of the Poor of any Parish or Place, with the Consent of a Majority of the Parishioners aforesaid, to contract with the Churchwardens and Overseers of any other Parish or Place, for the lodging, maintaining, and employing of any poor Person in their Parish; and upon Refusal of such poor Person to be kept in such other Parish, he shall be put out of the Collection Book, and disabled to ask Relief. Provided, that no poor Person, his Apprentice, or Children, shall acquire a Settlement in the Place whither they are removed by Virtue of this Act.

Parish-Officers
may contract
with any o-
ther Parish
for keeping
their Poor.

No Purchase
under 30 l.
will gain a
Settlement.

And no Person shall be deemed to have gained a Settlement in any Parish or Place, by purchasing any Estate or Interest in such Parish or Place, where the Consideration of such Purchase does not amount to 30 l. *bona fide*, paid for any longer Time than such Person shall inhabit in such Estate, and shall then be liable to be removed where he was last legally settled before such Purchase and Inhabitaney. *Ib.*

Paying to the
Scavenger's
Rate, or High-
ways, does not
gain a Settle-
ment.
Narborough.

And no Person, who shall be taxed or assessed to the Scavenger, or Repairs of the Highway, and shall pay such Rates, shall be deemed thereby to have gained a legal Settlement in any Place, by reason of their paying such Rates. *Ib.*

No Appeal to
be proceeded
on without
due Notice.

A Saving for the Borough of *St. Peter* and Hundred of *Narborough*, in the County of *Northampton*, to determine Appeals against Orders made for Removal of poor Persons in their Quarter-Sessions. *Ib.*

But adjourn'd
to the next
Sessions.

No Appeal from any Order for Removal of any poor Person from one Parish to another, shall be proceeded upon at any Quarter-Sessions, unless reasonable Notice be given by the Churchwardens or Overseers of the Poor of the Parish, who make such Appeal, unto the Churchwardens or Overseers from whence such poor Person shall be removed: And the Reasonableness of such Notice shall be determined by the Court of Quarter-Sessions to which the Appeal is made; and if such Court shall be of Opinion, that reasonable Notice was not given, they shall adjourn the Appeal to the next Quarter-Sessions, and there finally determine the same. *Ib.*

If upon an Appeal to the Quarter-Sessions, concerning Charges to be the Settlement of a poor Person, the Court shall deter- given the Ap- mine in Favour of the Appellant, they shall award pellants on a such Appellant so much Money as shall appear to have Removal. been reasonably paid by the Parish, in whose Behalf such Appeal was made so much Money as such Parish has expended in relieving such poor Person, between the Time of such undue Removal and the Determination of such Appeal, to be recovered as Costs and Charges are to be recovered by 9 W. 3. c. 30. upon an Appeal. *ib.*

R E A D I N G S.

Every Occupier of Houses, Lands, Tithes, Who may be Mines, Underwoods, or other Thing, from whence taxed towards an annual Profit arises, may, by 43 Eliz. cap. 2. the Poor's be tax'd towards the Poor's Rate: Also every Per- Rate. son, according to the visible Estate which he hath or possesses, in the Parish where he resides, and not elsewhere, may be tax'd to the said Rate. 2 Bulst. Sir Anthony Errby's Case.

And a Person, who hath Lands in his Occupa- Where Lands tion, and a Stock of Goods and Wares besides, as and Stock a Draper, Grocer, &c. may be taxed for both, but may be both not for such Stock or Goods with which he uses tax'd. to manure his Lands.

The Farmer or Occupier shall pay this Tax, Tenant to pay and not the Landlord, who is never to be taxed the Tax. for his Rent; for then the Land would pay twice; but if he be possess'd of a Sum of Money, or other Money tax'd. personal Estate, he may be taxed for that.

And when Goods or personal Estate are rated, it ought to be done in the same Proportion as Lands are taxed, namely, every hundred Pound at the Rate of 5 l. a Year; and the Party must be charged only in that Place where the Goods are at the Time of the Assessment; for if he hath not Goods or personal Estate where he is assessed to the Value he is charged, and is distrained, he may have an Action of Trespass.

The most reasonable and usual Way of taxing Pound Rate. Lands is by a Pound Rate, and not according to the Number of Acres.

Parish in Reputation within the Statute.

Where a Township or Village has a Chappel of Ease, and has been long reputed a Parish, though really but a Member of another Parish where the Mother Church stands, yet if it has been long reputed a Parish, and used to chuse Overseers, this shall be deemed a Parish within the Purview of the Statute of 43 *Eliz. Cro. Car.* 287.

Lands to be taxed in the Parish where they lie.

A Person who occupies Lands lying in several Parishes, shall be charged for the same in every Parish, according to the annual Value of the Land lying in each Parish.

Whether the Parson ought to be tax'd to the Poor.

And every Parson is chargeable for his Glebe and Tithes, according to the annual Value of the same, as well as a Layman, if they are in his own Occupation, notwithstanding that Clause in *Magna Charta*, which says, *The Church shall be free*: But whether this was Law before the Clergy gave up their Right of taxing themselves, in Convocation, is a very great Question; and how a Statute, which was made long before they parted with that Right, should bind them now, is not easy to conceive, notwithstanding the Opinion of Chief Justice *Hale*, cited in *Keble*, to the contrary: But the Chief Justice was no great Friend to the Clergy, and that might give a Bias to his Judgment in this Case. However, the Practice has been according to his Opinion ever since. At this Day, indeed, the Clergy may well be taxed with the Laity, because they are blended with them in several late Acts of Parliament relating to the Poor.

One Parish in two Counties, both Parts of the Parish to contribute to the poor of either.

The Parish of St. *Botolph* without *Aldgate* having but one Churchwarden, and distinct Overseers of the Poor, some Part of the said Parish lying in *London*, and the other in *Middlesex*, and two Children being left by their Mother in one Part of the Parish, it was resolved, that without a particular Usage to the contrary, each Part of the Parish, tho' lying in different Counties, should contribute proportionably to their Relief; but in this Case, there being distinct Officers and distinct Rates, and the Officers used to make distinct Accounts to the Justices of each County, therefore they

they should be taken as two distinct Parishes; but the Justices have no Power to dismember Parishes, tho' never so large, and tax the Vills and Townships distinctly; for it appears, that several Northern Counties, where the Parishes are very large, were under a Necessity of procuring a Clause in the said Act of 14 Car. 2. cap. 12. for this Purpose; and that Clause, tho' other Parishes in general are mentioned in the Recital, it seems, does not extend to any other Counties but those expressly named, none others being specify'd in the enacting Part. *Skillington against Norton.* 2 Lev. 142.

A Tenant being tax'd for Lands in his Occupation, shall not be charged for his Stock upon the same Lands, that is, (as has been already observ'd) for such Stock as was requisite towards his using the Land; nor for the Profits of such Lands, for which he has been already taxed as Occupier; but for other Stock and personal Estate he is chargeable. The Case of *Hoodham, Barkin, and Barnsden* in *Suffolk*.

The Churchwardens and Overseers of the Poor of the Parish of *Shoreditch* made a Rate for Relief of the Poor, which was confirmed by two Justices; and therein nothing was taxed for the personal Estate, but all upon the real, which was erroneous. Several Inhabitants appealed to the Sessions, and the Rate was there quash'd; and the Churchwardens, &c. order'd to make a new Rate upon both real and personal Estates. In the new Rate there was still a great Inequality, the real Estate being tax'd ten Times more, in Proportion, than the personal Estate; for this Reason several Inhabitants appealed again, and this Rate was likewise vacated by Order of the Sessions: And now *Northey* and *Shower* moved to quash these Orders, urging, that the Sessions could only relieve particular Persons over-rated or grieved, but could not set aside a whole Rate at once. *See per tot. Cur' viz. Holt, Rokeby, and Turton*, the Justices at their Sessions, upon an Appeal of particular Persons grieved, may, if they see Cause, set aside the Rate; for the Act is, that if any

Person or Persons find themselves aggrieved, it shall be lawful for the Justices of the Quarter-Sessions, to take such Order therein as by them shall be thought Convenient, 43 Eliz. c. 2. sect. 6. And in either

If Sessions set aside a whole Rate, they may make a new one.

Or refer it back to the Church-wardens, &c.

of these Cases, of the first or second Rate, the Justices could not give Relief, without setting aside the whole Rate; because the Rate was burthen some to a whole Set of Men: And they may make a new Rate themselves, or order the Churchwardens and Overseers to make a new Rate, as was done in this Case, they having it in their Discretion to make a new Rate at Sessions, or remand it to the Churchwardens, &c. to make one. The Orders were confirm'd. The Case of the Parish of St. Leonard Shoreditch. Mich. 10. W. 3. B. R. 2. Salk. 483.

No Mandamus lies to the Overseers, to make a Rate to reimburse from Overseers.

Rate must be for the Relief of the Poor.

Tawny being Overseer of the Poor of Little Port, in the Isle of Ely, laid out his Money in the Relief of the Poor, and was turn'd out of his Office by the Justices, before the End of the Year, by which Means he lost the Opportunity of making a Rate to reimburse himself: Upon this he obtain'd a Mandamus, directed to the Churchwardens and Overseers of the Poor, to make a Rate to reimburse him. Mr. Parker and Mr. Eyre argued, That there could be no such Charge, neither by common Law, nor by the Statute, 43 Eliz. *Et per* Holt Chief-Justice, We cannot order the Parish or Overseers by a Mandamus to make a Rate to raise Money to reimburse an Overseer, but only to raise Money for Relief of the Poor; nor can they make a Rate otherwise. The Act of Parliament is expressly so, and must be pursued. An Overseer is not bound to lay out Money till he has it, if he does, he must make a new Rate for the Relief of the Poor, and out of that he may retain to pay himself: *Tawny* should have done so, he trusted where he needed not have done it, he has not pursued the Means the Statute gave him, and we cannot relieve him. *Et per tot, Curiam.* The Mandamus lies not *Ideo cassetur & per Curiam.* The Churchwardens and Overseers

Overseers may make a Rate of themselves. *Tawny's Case. Hill. 2. Ann. B. R. 2. Salk. 531.*

A. took Part of a House in the Parish of *D.* on Assessments the 3d of *December*, and was rated as an inhabitant, and was distrain'd for a Quarter's-Rent the Christmas following; but the Distress was taken before Christmas, on a general Warrant made for the whole Year, and in Replevin upon Evidence it was ruled. *Per Holt C. J.* 1st, That if two several Houses are inhabited by several Families, who make, and have but one common Avenue or Entrance for both, yet in Respect of their Original, both Houses continue rateable severally, for they were at first several Houses; and if one Family goes, one House is vacant: But if one Tenement be divided by a Partition, and inhabited by different Families, viz. the Owner in one, and a Stranger in another, these are several Tenements severally rateable, while they are thus severally inhabited; but if the Stranger and his Family go away, it becomes one Tenement. 2dly, That *A.* could not be rated for the whole Quarter, for Poor's Rates are to be assessed monthly by the Statute; and by this Means a Man cannot move in the Middle of a Quarter, but he must be twice charg'd. 3dly, That *A.* could not be distrein'd by vertue of the general Warrant made before the Rate, but there ought to be a special Warrant on Purpose. 4thly, That a Distress could not be taken for a Quarter's-Rent, before the Quarter was ended; but the Jury said the Custom was otherwise. *Tracy versus Talbot. Trin. 3. Ann. Coram Holt C. J. At Nisi Prius. Ib.*

An Order was made at the Sessions, upon Appeal, the Case was *Hedge* an Overseer of the Poor from Allowance before two Justices, and this Account was allow'd, the Parish appeal'd to the Quarter-Sessions from this Allowance, and they disallow'd the Account, and order'd him to pay so much over, which they adjudg'd to be in his Hands; and for not doing this, they committed him. *Mr. Eyre* mov'd to quash this Order, because by 43 *Eliz. cap. 2. sect. 4.* they should have levy'd the to do.

the Arrears by Distress and Sale, and in Default of Distress, have committed him; and the whole Court agreed, That the Justices at the Sessions, upon the Appeal, must execute their Judgment in the same Manner, as the two Justices must do; and that the two Justices must have sent their Process to distrain, and upon a Return to that, that there was no Distress, should have committed him. *Domina Regina versus Hedges, Mich. 4. Ann. B. R. 2 Salk. 533.*

One marrying the Grandmother, when oblig'd to maintain the Grandchildren.

Where a Man marries a Woman who has poor Grand-children, and has no Estate or Fortune with her, although the Husband be in good Circumstances, he shall not be obliged to maintain his Wives Grand-children: And where the Husband has an Estate with the Grandmother, by Reason whereof he may be obliged to maintain her Grand-children, in her Life-time; yet after her Death, he is under no Obligation to maintain

One oblig'd to keep his Son's Wife.

them. *2 Bulst.*—And a Father has been ordered to make an Allowance to his Son's Wife, while his Son was beyond Sea.

Order to relieve his Father, till Sessions order the contrary, good.

An Order of Sessions was made, that the Defendant should pay 2 s. *per Week* towards the Support of his Father, till that Court should order the contrary, which was held good, because it was indefinite, and no set Time limited; and if an Estate happened to fall to him, they might apply to the Justices, otherwise if a Time was limited. *Jenkins's Case. Pasch. 5. Ann. B. R. 2 Salk. 534.*

One is not oblig'd to keep a Child, &c. able to get his Living.

An Order of Sessions was made, for a Man to allow his Daughter 18 d. *per Week*, but the Order was quash'd, because it did not appear thereby that she was unable to work, or that she was sick, aged, or impotent. *Mendozas's Case.*

Vagrant executed for Felony, where her Child shall be kept.

A travelling Woman having a sucking Child, was apprehended for Felony, and executed; and it was resolved, that the Child ought to be sent to the Place of its Birth, if that could be found, and if not, to the Place where the Mother was taken,

Generally

Generally the Wife ought to be sent where the Husband has a Settlement, though he be but a Servant, or Inmate; but if he be a Rogue, and sent to the House of Correction, she shall not be sent to him thither, but where she was last legally settled.

No Settlement can be legal, which is brought about by Practice or Compulsion. Settlement by a Trick void.

It was moved to quash an Order for two Justices, because it was recited, that they were credibly inform'd, that B. was the Place of the Party's last legal Settlement; and it was not averred positively to be the Place of his last legal Settlement, and the Order was quash'd. 2 Salk. 473. Order must determine the Place of the Party's Settlement positively.

It was moved also, to quash an Order, because it did not appear that the Justices were of the Division, or that either of them were of the Quorum; and it was held that the last was a good Exception, and not the first. 2 Salk. 473. One of the Justices of Quorum.

An Order of two Justices was also quash'd, because it did not appear they were Justices of the County, but only said to be residing in the County.

Two Justices of Peace made an Order for removing a Man and his Wife from *Kenston* to *Crawford*, which they judg'd to be his last legal Settlement, and upon an Appeal to the Sessions, an Order was made for removing them to *Amner*, a third Parish, which was quash'd upon Motion, because the Sessions had no Power to make an original Order in this Case: They could only confirm, or reverse the two Justices Order, and remove the Persons back to *Kenston*; and thereupon a new Order might have been, by two Justices, to remove the Persons to *Amner*, if that Town was really chargeable with them. 2 Salk. 475. Sessions cannot make an original Order.

The Justices of Peace may either tax particular Persons to be contributory to the Poor of another Parish, which cannot relieve its Poor, or they may assess a certain Sum on the whole Parish, and leave the Churchwardens to tax the Inhabitants proportionably. *Ib.* 481. Justices may tax particular Persons, or a whole Parish to contribute to another.

Order must be particular.

An Order was quash'd, because it was for the Removal of a Man with his Wife and Family, and it did not appear of whom his Family consisted. 485.

Where the Sessions quash the Order, it must appear to be an Appeal.

An Order made by two Justices of Peace, for settling a poor Person, was quash'd by the Sessions; but because it did not appear that it came before them by Way of Appeal, without which they have no Jurisdiction, this Order of Sessions was quash'd. *Anonymus. Pasch. 9. W. 3. B. R. 2 Salk. 479.*

Order of Reversal on Appeal, binds not a third Parish nor Party.

H. was sent by Order of two Justices from *St. Michael Bedenham*, to *Kingston Bowsey*, and that Order was revers'd upon an Appeal to the Sessions. Then the Man went to *Bedenham*, and *Bedenham* sent him to *D.* and a Motion was made, to quash this Order, because the Order of Reversal upon the Appeal, as to *Kingston Bowsey*, was conclusive against all the World; but the Court held, that the Determination upon the Appeal between other Parties, ought not to bind as to a third Parish, which was no Party. *Inter the Inhabitants of St. Michael Bedenham and Kingston Bowsey. Hill. 11. W. 3. B. R. 2 Salk. 486.*

Parish upon whom an original Order is made, cannot remove till that be reversed.

A. was removed by Order of two Justices, from the Parish of *A.* in *Warwickshire*, to *Chalbury* in *Oxfordshire*, from thence by Order of two Justices, to *Chipping Farringdon* in *Berkshire*. It was objected, That *Chalbury* ought to have appealed, and got the Order upon them discharged, which *Holt C. J.* agreed; for sending the poor Man to another Place, is falsifying the first Order, which cannot be done but by Appeal; for the Order of two Justices is a Determination of the Right against all Persons, till it be reversed. *Chalbury* should have appealed from the *Warwickshire* Order, and got that set aside, and sent the Man back thither, and the Justices there should have sent him to *Chipping Farringdon*, therefore naught. *Inter the Inhabitants of Chalbury and Chipping Farringdon. Trin. 12. W. 3. B. R. 2 Salk. 488.*

Order of Execution upon a former Order of several void.

A Man was removed from the Parish of *All-hallows*, to the Parish of *Long-Critchell*. He goes from

from *Long-Critchell* to *P.* They got several Orders from two Justices, by Way of Execution of the first Order, to remove him from *P.* to *L.* but all of them were quash'd; because *P.* ought to have made an original Complaint, and upon that have got an Order, and not have grafted on the Order of Removal from *A.* to *L.* though they might have used that as Evidence, to induce the Justices to make such original Order; for *P.* is a third Parish, against which *L.* is not bound by the Order of Removal from *A.* to *L.* but may contest the Right of Settlement with them. *Mr. Wynton* took an Exception, that the inforcing Orders did not appear to be made by two Justices *Quor. Und.* And *Holt C. J.* seemed to think that a good Exception, because such Persons as cannot make an Order, cannot execute it; but the Orders were quash'd upon the first Reason. *Dominus Rex versus the Inhabitants of Long-Critchell. Mich. 12. W. 3. B. R. Ib. 489.*

Exception was taken to an Order of two Justices, because it was only said to be complained by the Churchwardens, that the Person removed was likely to become chargeable; but not adjudged so by the Justices. *Holt C. J.* said, That the Justices cannot remove a Man, unless he be likely to become chargeable; for otherwise they might remove a Man of an Estate. And he took a Diversity, that where the Order is, *Whereas it appears to us, &c. in the Complaint, &c. that I. S. is likely to become chargeable to the Parish,* that will be well enough; but where it is as here, *Whereas Complaint hath been made, &c. that is ill.* It ought to appear that the Person removed is a Person removeable, and there ought to be a particular Averment that he is likely to become chargeable. *Inter the Inhabitants of Suddlecomb and Burwash. Trin. 13. Will. 3. B. R. Ib. 491.*

A poor Man was sent by two Justices to *Shensfield*, and upon an Appeal, the Order was confirmed; afterwards *Shensfield* sends him by an Order to *Swanscomb*. All these Orders being brought up by *Certiorari*, the Order to send him to *Swanscomb* was all the World.

But the Parish aggrieved
ought to have
procured an
original Order.

Complaint
that it is like-
ly to be charg-
able, not e-
nough with
Adjudication,
but whereas it
appears to us
on Complaint,
&c. that it is
likely, &c. is
sufficient.

Order rever-
sed is final
only between
the Parties.
Order confir-
med or not
appealed from,
is final as to
was all the World.

was quashed, because, by the Determination of the Justices in Affirmance of the Order on the Appeal, *Shensfield* was estopped against all the World to say, That was not the Place of his last legal Settlement; for the Justices cannot remove but to the Place of the last legal Settlement: And shewing any late Place of Settlement will discharge the Order on the Appeal; and the Diversity is between an Order discharged, and an Order confirmed upon an Appeal, or not appealed from. In the first Case, the Matter is at large, as to all Places but the Place to which the poor Man was sent, which upon the Appeal was determined not to be the Place of his last legal Settlement. But in the later Cases, the Place to which he was sent is bound, and the Order final and conclusive as to all the World. Inter the Parishes of *Swanscomb* and *Shensfield*. *Pasch. 1 Ann. B. R. 2 Salk. 492.*

Certificate-
Man not re-
moveable, till
actually
chargeable.

Parish giving
a Certificate,
only bound
against the
Parish they
give it to.

Father dying,
Query, If the
Children shall
be settled
where he was
settled, or
where born.

One who comes into a Parish with a Certificate, is not removeable till he actually become chargeable, and an Order for removing a Person, because it was likely to become chargeable, was quashed. *Ib. 530.*

A Person who was born at *A*, came and lived at *B* some Years, but gained no Settlement there, afterwards removed to *C*, and *B* gave him a Certificate, and the Man became chargeable, and was sent back to *B*, who finding that he was legally an Inhabitant of *A*, procured an Order to send him thither; and it was adjudged, That the Parish which gave him the Certificate ought to receive and provide for him, against that Parish to which they gave the Certificate, but yet that did not conclude them as to any other Parish where he was legally an Inhabitant. *Ib. 530. Contra 536.*

Howel and his Wife were settled at *Luckington*, and came clandestinely into the Parish of *St. Andrew's* (in *Bristol*) and there a Child was born. The Father died in the King's Service, the Question was, Who should keep the Child. Per *Holt, C. J.* The Death of the Father doth not alter the Child's Settlement, which must be settled where

where the Father was last settled as well as the Mother. *Comberbech 380. Quer.*

A poor Person coming on Shoar from a foreign Country, cannot be removed to the Place of his Landing. *Com. 287.* A poor Man coming from abroad, where

Two Orders were returned, the first for settling a poor Man, one *Thomas Gill*; and the second a Confirmation of the first, upon an Appeal to the Quarter-Sessions: The first Order recited, That whereas Complaint hath been made to us, &c. That *T. G.* had of late intruded into the Parish of *St. George*, we adjudge him to be last legally settled at *St. Olave's*; these are therefore to require you to convey the said *Thomas Gill* to the Parish of *St. Olave's*. And the Direction upon the Order was, *To the Church-wardens and Overseers of the Poor of the Parish of St. Olave's* quashed, for they ought, and can only order the Parish Officers where the Intrusion is made, to make the Removal. Inter the Inhabitants of *St. George's* and *St. Olave's Southwark.* 2 *Salk.* 493. Justice can not command the Officers of the Parish whither one is sent, to remove him.

An Order was made at the Quarter-Sessions for Relief of poor Prisoners in Goals, and providing Materials to set them on Work. Upon the Statutes of 14 *Eliz. cap. 5.* and 12 *Car. 2. c. 4.* Whereby a Sum was assessed on the several Parishes, not exceeding what is allowed by both Acts; but the Order was quashed, because they ought to have made distinct Orders upon the different Statutes, the Money to be levied by Vertue of each Statute, being applicable to different Purposes. Inter Inhabitan. Paroch. *Eaton-Bridge*, and Inhabitan. Paroch. *Westram in Kanc. Hill* 11 *W. 3. B. R. Ib.* 487. Order for Relief of poor Prisoners.

A Motion was made to quash an Order of Sessions, because the Justices had adjourned the Appeal from one Sessions to another; and so the Determination upon the Appeal was not at the next Quarter-Sessions, *sed non Allocatur*, for the Appeal must be lodged at the next Quarter-Session; yet when it is lodged, the Justices may adjourn it, *per Cur.* The Case of the Parish of *King's Langley.* *Trin. 11 W. 3. B. R. Ib.* 605. Appeal may be adjourned from one Quarter-Sessions to another.

The Sessions
need not set
forth the Reason
of their
Judgment.

On an Appeal to the Sessions, the Court discharged the first Order, and uow Mr. *Earl* moved to set aside the Order of Discharge, because the Justices do not say whether they discharge it for Form, or on the Merits; for if it was for Form, the Parith is not bound; but if on the Merits, the Parith in Consequence is hereby discharged for ever. *Et per Cur'*. 1st. The Justices are not bound to expresse the Reason of their Judgment in the Judgment, no more than other Courts; and if it was otherwise held in the late Chief Justice's Time, it past without due Consideration. The Reason of their Judgment must be collected from the Record, as where Judgment is arrested upon an insufficient Indictment. Inter the Inhabitants of the Parishes of *South Gadbury* and *Bradden*, in *Com. Somerset. Mich. 9 Ann. B. R. Ib. 607.*

Justices could
not tax a particular
Hundred towards
a Work-House,
but now every
Town may
set up a Work-
house.

Who may be
sent to the
Work-house.

The Justices, at their Sessions, may increase the Number of Workhouses for the County, if there be Occasion; but they cannot erect a Workhouse, or levy a Tax for erecting one, upon any particular Precinct or Hundred, but it must be a general Tax upon the whole County, unless in Boroughs and Corporations. 1 *Salk. 362.* The Case of the Hundred of *Black-heath.*

Any Person having no visible Estate to support himself, and living in an extravagant Manner, may be sent to *Bridewell*, and set to Work there, but not whipped until he is convicted in Court of refusing to Work.

See Titles *Apprentices, Bastards, Constables, Col-
leges, Hospitals.*

Post.

7

Post.

THERE shall be one General Post-Office in *London*, 9 *Ann. c. 10.* and one Post-Master General, to be made by Let- All Letters to ters-Parents; and he or his Deputy, and Deputies, and be sent by the no other, shall have the receiving and dispatching Let- General Post. ters in all Places within this Realm and without, where he shall settle any Posts, except Letters which concern Except Let- Goods sent by common Carriers, and which shall be de- ters sent with livered with the Goods, without any Profit for receiv- Goods, ing or delivering them, and except Merchants Letters, And Mer- and those of Masters of Ships, so as such Letters be de- chants Let- livered to the Persons to whom they are directed, with- ters, out receiving any Profit for them; and except Commis- sions, Affidavits, Writs, &c. And any Letters sent by private Friends in their Journey, or by any Messenger And Letters about private Affairs or Business Stat. 9 *Ann. cap. 10.* sent by pri- vate Hands.

Provided, That Carriers receive no Letters but such as concern the Goods they then carry; and the Drivers of Stage-Coaches, Masters of Passage-Boats, nor Watermen or Bargemen, shall carry any Letters, altho' they receive no Hire or Reward for the same. *Ib.*

The Post-Master General may keep one Letter Office in *Edinburgh*, another in *Dublin*, another at *New-York*, and other chief Offices, at convenient Places in *America*, and in the *Leeward Islands*, and appoint Deputies there. *Ib.*

The Post-Master General, and his Deputies, and no other Person, shall provide Horses and Furniture for any Person riding Post, where any Post Road shall be settled. *Ib.*

He shall take for the Postage of every single Letter, not coming from, or directed on Shipboard, and to and from any Place in *England*, not distant above 80 Miles from *London*, 3 *d.* and for every double Letter 6 *d.* and so proportionably for every Pacquet of Letters, and for a Pacquet of Writs, Deeds, or other Things, 12 *d. per Ounce.* For every single Letter above 80 Miles from *London* 4 *d.* and for a double Letter 8 *d.* and for other Things 1 *s. 4 d. per Ounce.* For every Letter from *London* to *Edinburgh*, and from thence to *London*, and to and from *Dumfries*, or *Cockburnspeth*, and between either of those Places and *Edinburgh* 6 *d.* and for every double Letter 12 *d.* and for other Parcels 2 *s. per Ounce.* For every single Letter from *Edinburgh*, to any Place not exceeding 50 Miles in *Scotland* 2 *d.* and

None but the Post-Master to furnish Post Horses.
Rates of Post Letters.

for a double Letter 4 d. and for other Parcels 8 d. per Ounce, and if above 50 Miles 3 d. and for a double Letter 6 d. and for other Parcels 12 d. per Ounce. If above 80 Miles; then for every single Letter 4 d. and for every double Letter 8 d. and for other Letters 1 s. 4 d. per Ounce. From London to Dublin, or from thence to London, for a single Letter 6 d. a double Letter 1 s. for other Parcels 2 s. per Ounce. For a single Letter from Dublin, to any Place in Ireland, not exceeding 40 English Miles 2 d. for a double Letter 4 d. and for other Parcels 8 d. per Ounce. If above 40 Miles, then for every single Letter 4 d. and for every double Letter 8 d. and for other Parcels 1 s. 4 d. per Ounce. For the Postage of Letters and Pacquets directed on Board, or brought from any Vessel riding or stopping in any Part of England 1 s. over and above the said Rates; and for the Postage of all Letters and Pacquets passing by the Penny-Post, and to be received and delivered within ten Miles Distance from the General Post Office 1 d.

Penny Post.

		s.	d.
Foreign Euro- pean Letters.	All Letters and Pacquets coming from any Part of France to London	Single	0 10
		Double	1 8
		Treble	2 6
		Ounce	3 4
	All Letters and Pacquets from London, through France, to Spain and Portu- gal, Post paid to Bayonne; and from Spain and Portugal, through France, to London	Single	1 6
		Double	3 0
		Treble	4 6
		Ounce	6 0
	From London, through France, to Italy or Sicily, by Way of Lyons, or to any Part of Turkey, by way of Marselia, and from any other Parts, through France to London	Single	1 3
		Double	2 6
		Treble	3 9
		Ounce	5 0
	From the Spanish Netherlands to London	Single	0 10
		Double	1 8
		Treble	2 6
		Ounce	3 4
	From London, through the Netherlands, to Italy, Sicily, Post paid to Antwerp, and from Italy or Sicily, through the Spanish Netherlands to London	Single	1 0
		Double	2 0
		Treble	3 0
		Ounce	4 0
	From London, through the Netherlands, to Germany, Switzerland, Denmark or Sweden, and all Parts of the North, and from any of those Parts, through the Netherlands to London	Single	1 0
		Double	2 0
		Treble	3 0
		Ounce	4 0

From

		s.	d.
From London, through the Spanish Netherlands, to Spain, Portugal, and so back —————	Single	1	6
	Double	3	0
	Treble	4	6
	Ounce	6	0
From the United Provinces to London —————	Single	0	10
	Double	1	8
	Treble	2	6
	Ounce	3	4
From London, through the United Provinces, to Italy, Sicily, and so back —	Single	1	0
	Double	2	0
	Treble	3	0
	Ounce	4	0
From London, through the United Provinces, to Germany, Switzerland, Denmark, Sweden, and all Parts of the North, and so back —————	Single	1	0
	Double	2	0
	Treble	3	0
	Ounce	4	0
From London, through the United Provinces, to Spain and Portugal, and so back —————	Single	1	6
	Double	3	0
	Treble	4	6
	Ounce	6	0
From London, through the Spanish Netherlands, or the United Provinces, to Hamburg, Post paid to Antwerp or Amsterdam, and so back —————	Single	0	10
	Double	1	8
	Treble	2	6
	Ounce	3	4
All Letters passing between London, Spain or Portugal, in Pacquet-Boats —————	Single	1	6
	Double	3	0
	Treble	4	6
	Ounce	6	0
From London to Jamaica, Barbadoes, Antegoa, Montserrat, Nevis, St. Christophers, and from any of these Places to London —————	Single	1	6
	Double	3	0
	Treble	4	6
	Ounce	6	0
Letters and Pacquets from London to New-York in North-America —————	Single	1	0
	Double	2	0
	Treble	3	0
	Ounce	4	0
Letters and Pacquets from the West-Indies to New-York, and the like from New-York to any Place within 60 Miles thereof, and thence back to New-York —————	Single	0	4
	Double	0	8
	Treble	1	0
	Ounce	1	4

Rates in the Plantations.

	s.	d.
From <i>New-York</i> to <i>Perth, Amboy</i> , the chief Town in <i>New Jersey</i> , and to <i>Bridlington</i> , the chief Town in <i>West-Jersey</i> , and from those Places back to <i>New-York</i> , to any Place not exceeding 100 <i>English</i> Miles, and from each of those Places to <i>New-York</i> —	Single Double Treble Ounce	0 6 1 0 1 6 2 0
From <i>Perth, Amboy</i> , and <i>Bridlington</i> , to any Place not exceeding 60 <i>English</i> Miles, and thence back again —	Single Double Treble Ounce	0 4 0 8 1 0 1 4
To any Place not exceeding 100 Miles, and thence back again —	Single Double Treble Ounce	0 6 1 0 1 6 2 0
From <i>New-York</i> to <i>New-London</i> , the chief Town in <i>Connecticut</i> in <i>New-England</i> , and to <i>Philadelphia</i> , the chief Town of <i>Pennsylvania</i> , and from thence back to <i>New-York</i> —	Single Double Treble Ounce	0 9 1 6 2 3 3 0
From <i>New-London</i> to <i>Philadelphia</i> , to any Place not exceeding 60 <i>English</i> Miles, and thence back —	Single Double Treble Ounce	0 4 0 8 1 0 1 4
Not exceeding 100 <i>English</i> Miles, and so back —	Single Double Treble Ounce	0 6 1 0 1 6 2 0
From <i>New-York</i> to <i>Newport</i> , the chief Town in <i>Rhode-Island</i> , and <i>Providence</i> Plantation in <i>New-England</i> , and to <i>Boston</i> , the chief Town in <i>Massachusetts</i> 's Bay in <i>New-England</i> , and to <i>Portsmouth</i> , the chief Town in <i>New Hampshire</i> , in <i>New-England</i> , and to <i>Anapolis</i> , the chief Town in <i>Maryland</i> , and from every of these Places to <i>New-York</i> —	Single Double Treble Ounce	1 0 2 0 3 0 4 0
From <i>Newport, Boston, Portsmouth</i> , and <i>Anapolis</i> , to any Place not exceeding 60 <i>English</i> Miles —	Single Double Treble Ounce	0 4 0 8 1 0 1 4
To any Place not exceeding 100 Miles, the same as from <i>New-London</i> to <i>Philadelphia</i> , which see as before.		

		s.	d.
From <i>New-York</i> to <i>Salem</i> and <i>Ipswich</i> , to <i>Piscataway</i> , and to <i>Williamsburgh</i> , the chief Office in <i>Virginia</i> , and from every of those Places to <i>New York</i> —	Single	1	3
	Double	2	6
	Treble	3	9
	Ounce	5	0
From <i>Salem</i> , <i>Ipswich</i> , <i>Piscataway</i> , and <i>Williamsburgh</i> , to any Place not ex- ceeding 60 <i>English Miles</i> —	Single	0	4
	Double	0	8
	Treble	1	0
	Ounce	1	6
Not exceeding 100 <i>English Miles</i> —	Single	0	6
	Double	1	0
	Treble	1	6
	Ounce	2	0
From <i>New-York</i> to <i>Charles-Town</i> in <i>Ca-</i> <i>rolina</i> , and from thence to <i>New York</i> —	Single	1	6
	Double	3	0
	Treble	4	6
	Ounce	6	0
From <i>Charles-Town</i> to any Place not exceeding 60 <i>English Miles</i> —	Single	0	4
	Double	0	8
	Treble	1	0
	Ounce	1	4
To any Place not exceeding 100 <i>Eng-</i> <i>lish Miles</i> — — — —	Single	0	6
	Double	1	0
	Treble	1	6
	Ounce	2	0

Places where Posts are not settled beyond Sea, and which may be hereafter settled, must pay according to these Rates. *Ib.*

Foreign Letters delivered at any Place between *London*, and any of the Ports from whence the *Pacquet-Boats* sail, must pay the same Rates as if conveyed to and from *London*. *Ib.*

The Postmaster-General may keep *Pacquet-Boats* to go Weekly from *Donachdee*, or some other convenient Place in *Ireland*, to *Port Patrick* in *Scotland*, paying over and above the *Ireland* Rates of the Place where such Letters are delivered, to be sent by such *Pacquet-Boats*, for every Single Letter 2 *d.* Double 4 *d.* Treble 6 *d.* Ounce 8 *d.*

The Postmaster may erect *Cross Stages*, and he or his *Cross Stages*. Deputy, may demand and receive the same Rates in any such *Cross Stages*, in Proportion to the Distances of the Places, as Letters to and from *London* are rated. *Ib.*

He may appoint one to measure the Roads by the Wheel, except such Roads where the Stages are already settled; and the Persons so appointed shall make fair Surveys of each of the Kingdoms, and shall leave one

with the Postmaster-General in *London*, and another at the chief Office at *Edinburgh*, which Surveys shall be sign'd by the Person who made them, and by the Postmaster-General, and his Deputies in each Kingdom; and by the Comptrollers and Surveyors at the General-Post-Offices in *London*, *Edinburgh* and *Dublin*, which Surveys shall determine the Distances on all the said Roads. *lb.*

Provided that he who makes the Survey shall take Oath before some Justice of the Peace, in the said Kingdoms respectively, to perform the same according to the best of his Skill; and the Justices shall make a Certificate thereof in Writing, to be entered in the three General-Post-Offices, without Fee. *lb.*

Merchants
Bills.

Provided that Merchants Accompts not exceeding one Sheet, and all Bills of Exchange, and Invoices, and Bills of Lading, shall be allowed to pass without Rate, in the Price of Letters; and likewise the Covers of Letters, not exceeding one fourth Part of a Sheet, sent by the Way of *Vienna*, *Marseilles*, *Venice*, *Leghorn*, to be sent to or from *Turky*. *lb.*

Rate of Post-
Horses.

The Postmaster shall receive for every Posthorse he shall furnish a Gentleman with, riding Post, 3 *d.* a Mile, and 4 *d.* for the Guide; and he shall not charge any Thing for carrying a Bundle, so as it doth not exceed eight Pounds.

Letters
brought by
Shipping.

All Letters and Packets brought by any Master of a Ship, or any of his Company, or any Passengers, shall be delivered into the Post Office forthwith, on Pain of forfeiting 5 *l.* except such as may be sent by a common Carrier, or Friend. *lb.*

The Master or other Person bringing such Letters to the Post-House, shall receive of the Deputy-Postmaster a Penny for every Letter, he signing the Certificate of the Number of Letters delivered, and by what Vessel they came, and when they were delivered; which Certificate shall be sent by the next Post, to the Postmaster-General, together with the Letters so delivered, and he shall have Credit for so much Money upon his Account. *lb.*

Pain of set-
ting up any
other Post.

No Person other than the Postmaster-General, or his Deputy, shall receive, take or carry Letters, either by Land or Sea, or provide Horses for riding Post, or collect any Letters, or set up any foot Post, Horse-Post, or Packet-Boat, under the Penalty of 5 *l.* for every Offence; and also 100 *l.* for every Week that any Officer shall collect, receive, take, carry or convey any Letters or Packets, either by Water or Land; or shall

up, continue or employ any foot Post, &c. or other Conveyance for the carrying or delivering Letters. *1b.*

Any Person employ'd as a Deputy-Postmaster, or By-letters, otherwise, who shall not duly Accompt for all By-letters, and who doth not put in his Post-Bills all the By-letters he shall receive, distinguishing the same whether single or double, &c. or that shall destroy any such By-letters, shall forfeit for every Offence the same as Persons prohibited setting up a Posthouse, the Penalty to be recovered by Action of Debt, Bill, Plaint or Information; one Moiety to the Crown, the other to the Prosecutor, together with full Costs. *1b.*

The Postmaster not furnishing Horses within half an Postmaster Hour after Demand, the Person is at Liberty to provide not providing himself as well as he can, to the next Stage, and he Horses. who furnishes the Horse, shall incur no Penalty, *1b.*

Provided that if through the Default or Neglect of the The Penalty. Postmaster, any Person riding of Post, shall fail of being provided with sufficient Horses after Demand, the Party offending shall forfeit 5 *l.* the one Moiety to the Crown, the other to the Prosecutor, to be recovered in any Court of Record. *1b.*

Provided that this Act shall not prohibit the carrying of Letters to and from any Place, to and from the respective Post-Road or Stage appointed for that Purpose, being above six Miles from the said three General-Post-Offices. *1b.*

Provided also that no Person shall collect Letters in Collectors of London, or the Suburbs, without License of the Post-Letters. master-General, under Pain of forfeiting as Persons collecting, carrying and delivering Letters contrary to this Act. *1b.*

Provided that if a Mail be carried out of England, in a Vessel which is not a free Ship, and navigated by Seamen as by Law is required, That then the Postmaster-General shall forfeit 100 *l.* one Moiety to the Crown the other to the Prosecutor. *1b.*

Provided that the Postmaster-General, and all his Of-Qualifications ficers and Deputies, acting under him, who shall receive required of the Sacrament according to the Church of England, sub-Officers. scribe the Test, and take the Oaths of Allegiance, Supremacy and Abjuration, in the Times and Places appointed by Law, shall be sufficiently qualified to execute their respective Employments, throughout her Majesty's Dominions. And all Deputies and Agents, acting under the Postmaster-General in Scotland, and who shall take the Oaths of Allegiance and Abjuration, and subscribe the same, with the Assurance appointed to be taken in
C 4 Scotland,

Scotland, shall be qualified to exercise their Offices there. *Ib.*

Provided that a Packet-Post shall come twice every Week by *Truro* and *Penryn*, to *Penzance* in *Cornwal*, and once a Week by *Lancaster* to *Kendal*, and by *Newcastle* and *Carlisle* to *Penrith* in *Cumberland*, and to the City of *Lincoln*, and Borough of *Grimsby* in the County of *Lincoln*. *Ib.*

The Postmaster-General shall observe such Orders and Rules for Settlement of Posts and Stages on the Roads, and providing Horses, as the Crown shall make and ordain. *Ib.*

Provided no Horse shall be seized for the Post-Service, without Consent of the Owner. *Ib.*

The Post shall pay nothing for passing Ferries in *North-America*, but the Ferry-men shall within half an Hour after Demand, convey the Post over the Ferry, under Pain of 5 *l.* one Moiety to the Crown, the other to the Postmaster, to be recovered in the Courts there. *Ib.*

Money due
for Postage
recovered.

All Money due for Letters not exceeding 5 *l.* shall be recovered before the Justices of Peace, as small Tithes; and shall be paid before any Debt due to a private Person. *Ib.*

Where Letters
shall be paid
for.

All inland Letters are to be paid for at the Stages where they are last delivered, unless directed aboard, or to any Person in the Army, or sent by the Penny-post, or such as are sent out of *England*, which must be paid for when they are put in.

Universities
their Privi-
ledges saved.

Provided the two Universities enjoy their Priviledges as heretofore, and that all Letters and other Things may be sent to and from thence as formerly. *Ib.*

Provided that the Postmaster-General, and his Deputies, may continue By-bags for collecting and delivering By-letters, the said Deputies paying the Duty to the Receiver-General. *Ib.*

After 1 *June* 1743, the old Rates shall be taken for Letters again.

None to delay
or open Let-
ters.

No Person shall open, detain or delay any Letter, after the same is delivered in the General-Post-Office, except by Warrant in Writing, under the Hand of a Secretary of State; or unless the Party to whom it is directed refuses to pay the Postage, or where the Letter shall be returned for want of true Directions.

On Pain of
20 *l.*

The Person offending in these Particulars, or embezzling a Letter, forfeits 20 *l.* and full Costs to him that will sue for the same, and is incapable of any Employment in the Post-Office. *Ib.*

The Postmaster, and all his under Officers, to take the following Oath before a Justice of Peace, of the County where Resident. *lb.*

I T. P. do swear that I will not wittingly, willingly, or Oath to be taken knowingly, open, detain or delay, or cause, procure, per-ken by the mit or suffer to be opened, detained or delayed, any Letter or Postmaster. Letters, Packet or Packets, which shall come into my Hands, Power or Custody, by Reason of my Employment in, or relating to the Post Office, except by the Consent of the Person or Persons, to whom the same is or shall be directed, or by an express Warrant in Writing under the Hand of one of the principal Secretaries of State for that Purpose, or except in such Cases where the Party or Parties, to whom such Letter or Letters, Packet or Packets shall be directed, or who is or are hereby chargeable with the Payment of the Post or Posts thereof, shall refuse or neglect to pay the same, and except such Letters or Packets, as shall be returned for want of due Direction, or when the Party or Parties, to whom the same is or shall be directed cannot be found; and that I will not any Way imbezil any such Letter or Letters, Packet or Packets as aforesaid. *lb.*

No Person employ'd in the Post-Office, shall per-Officers not to swade any Elector, either by Word, Writing or Message, concern them- to give a Vote to choose any Member of Parliament, on selves in the Pain of 100 l. one Moiety to the Informer, and the Election of other to the Poor of the Parish, where the Offence is Members of committed; and the Offender shall be incapable of any Parliament. Office or Place of Trust. *lb.*

R E A D I N G S.

Lane having Exchequer Bills, enclosed them in Postmaster a Letter, directed to one *Jones* at *Worcester*, and not answered delivered it at the Post-Office at *London*, into the ble for Bills Hands of one *Breeze*, who was appointed by the enclosed in Defendants to receive the Letters, and had a Letters. Salary; the Letter was opened in the Office, by a Person unknown, and the Exchequer Bills taken away; and for this an Action on the Case was brought against the Defendants, being Postmasters, *Turton*, *Gould* and *Powys*, Justices, held, That the Action did not lie; 1. Because the Offence is for Intelligence, and not for Insurance. 2. Because *Breeze* is an Officer, and he is liable. 3. It

Innkeeper li-
able to an Ac-
tion for not
receiving a
Traveller.
Carrier for
not receiving
Goods.

3. It is impossible the Postmaster-General who is to execute this Office, in such distant Places, by so many several Hands, should be able to secure every Thing. 4. This is not a Conveyance for Treasure. *Holt* Chief Justice *Contra*. He considered this as a Letter lost in the Office, and not upon the Road; and he held, 1. That the Postmaster-General is liable, because the Care of the Whole is committed to him, and the rest are but his Deputies, and the Law makes the Officer responsible, both for himself and his Deputies, 2. He has a Reward, which is the Reason in the Case of Innkeepers, Hoymen and Carriers, that they are bound to keep Goods safely, and answer all Neglects of those who act under them; and they would be so, although they should expressly caution against it; and although it be hard to charge a Carrier who is robbed, yet if he should not be charged, he might keep a Correspondence with Thieves, and cheat the Owner of his Goods. And when a Man takes upon him a publick Employment, he is bound to serve the Publick in that Employment, or an Action lies against him for refusing; so where a Farrier refuses to shoe a Horse, an Innkeeper to receive a Guest, or Carrier to carry Goods, when they may do it, an Action lies against them for Refusal; but in the principal Case, Judgment was given for the Defendants. *Lane versus Cotton & al Pasch. 12. W. 3. B. R. Salk. Ref. 17.*

Premunire

Premunire.

WHereas divers People are drawn out of the Realm, 27 Edw. 3. to answer Things, the Cognizance whereof be- cap. 1. longeth to the King's Court, and the Judgments given in the King's Court are impeached in another Court, in Prejudice and Disherison of the King, his Crown and People, and to the Destruction of the common Law of this Realm. It is assented and accorded by the King, Whoever shall the great Men, and Commons, that whoever shall draw sue in a fo- any out of the Realm in Plea, where the Cognizance reign Court. belongeth to the King's Court, or in Matters where Or in any bug Judgment hath been given in the King's Court. And the King's whoever shall sue in any other Court, to defeat or im- Court. peach the Judgments given in the King's Court, shall be summoned to answer such Contempt within two To be sum- Months; and if they shall not appear in Person at the moned, and in Day, to be at the Law, they shall be put out of the Default of Ap- King's Protection, with their Procurators, Attornies, pearance out- Notaries and Maintainers, and their Lands, Goods and lawed. Chattels forfeited to the King, and their Bodies be im- prisoned and ransomed at the King's Will; and if they cannot be found, they shall be outlawed. Stat. 27. Ed. 3. cap. 1.

Provided that if they come in, before they be out- lawed, and yield themselves to Prison, to be justified by the Law, and submit to the Judgment of the Court, they shall be received. *Id.*

Whereas the Commons have shewn, and grievously 16 R. 2. c. 5. complained to the King, that whereas the King and his Preamble People ought of Right, and of old Time were wont to thewing Pre- sue in the King's Court, to recover their Presentments sentments to to Churches, Prebends, and other Benefices, the Plea Churches whereof only belongeth to the King's Court. And up- ought to be on Judgment given in the same Court, the Bishops and sued for in the other spiritual Persons having the Institution of Bene- King's Courts. fices, were bound, and have made Execution of such Judgments by the King's Command, without Inter- ruption. Of late the Bishop of Rome hath made And the En- divers Procceses and Censures of Excommunication a- croachments gainst certain Bishops, for executing such Commands, of the Pope, to the Disherison of the Crown, the Destruction of the King, his Laws, and all his Realm. And it is rumour- ed that the said Bishop of Rome, purposes to translate se- veral Prelates out of the Realm, and some from one Bishoprick to another, within the Realm, without the King's

King's Assent, and without the Assent of such Prelates, by which Means the King would lose the Advice and Assistance of several Sages of his Council, and the Treasure of the Kingdom would be carried into foreign Countries; and the Crown of *England* which hath been free at all Times, and hath been in no earthly Subjection, but immediately subject to God, and to none other, should be submitted to the Pope, and the Laws of the Realm be defeated and avoided at his Will.

Declared illegal.

Wherefore the Commons declare, that the said Attempts are clearly against the King's Crown, and his Regality aforesaid, and approved in the Time of all his Progenitors. And that they, and all the Commons of the Realm, will stand with the King, his Crown, and his Regality, in the Cases aforesaid; and in all other Cases attempted against him, his Crown, and his Regality, in all Points to live and die. And they pray the King, that he will examine the Lords, as well spiritual as temporal, and all the Estates of Parliament severally, how they will stand in the same Case with the King, in upholding the Rights of the Crown and Regality.

As do the temporal Lords.

The Lords temporal thereupon, answered, That the Cases aforesaid were clearly in Derogation of the King's Crown and Regality, and that they will stand by the King with all their Power against such Attempts.

Bishops give an equivocal Answer.

The Bishops being severally examined, and protesting that they neither intended to deny or affirm that the Bishop of *Rome* might not excommunicate Bishops, or translate Prelates by the Laws of holy Church, answered and said, That if any Execution of Processes made in the King's Court, as aforesaid, be made by any, and Censures of Excommunication be made against any Bishops of *England*, or any other of the King's Subjects, for executing such Processes; and if any Translation of the Prelates of this Realm, be made without the King's Assent, and against his Will, be carried out of the Realm, so as the Treasure of the Realm be consumed, that this is against the Prerogative of the King and his Crown. Whereupon the King, at the Request of the Commons, and by the Assent aforesaid, ordained, That if any purchase, or pursue, or cause to be purchased, or pursued in the Court of *Rome*, or elsewhere, any such Translations, Processes, and Sentences of Excommunication, Bulls and Instruments, or other Things against the King, his Crown, his Regality, or his Realm, as aforesaid. Those who bring them into the Realm, or receive them, or make Notification thereof, or any other Execution within this Realm, or without, they, their Notaries;

Enacted that those who sue in foreign Courts shall incur a Premunire.

taries, Procurators, Maintainers, Fautors, Abettors and Counsellors, shall be put out of the King's Protection, and their Lands and Tenements, Goods and Chattels forfeited to the King; and they shall be attached by their Bodies, and brought before the King and his Council, to answer the Premises; or Process shall be made out against them by *Premunire Facias*, according to former Statutes of Provisors.

R E A D I N G S.

A Premunire is so term'd from the Words in Premunire the Writ *Premunire Facias*, or *Premonere Facias*, why so called, signifying the Writ, and the Offence on which the Writ is grounded. 3 *Inst.* 120.

The Judgment in a Premunire, is, That the Judgment Defendant shall be from thenceforth out of the thereon. King's Protection, and his Lands and Tenements, Goods and Chattels forfeited to the King; and that his Body shall remain in Prison at the King's Pleasure. So odious was this Offence of Premunire, that a Man that was attainted of the same, might have been slain by any Man; because it was provided by Law, that a Man might do to him as to the King's Enemy, and any Man may lawfully kill an Enemy. But Queen *Elizabeth* and her Parliament, liking not the extream and inhumane Rigour of the Law in that Point, did provide, That it should not be lawful for any Person to slay any Person, in any Manner attainted, in or upon any Premunire, &c.

Tenant in Tail, attainted in a Premunire, shall forfeit the Land, but during his Life; for albeit the Statute of 16 R. 2. cap. 5. enacted, That in that Case their Lands and Tenements, Goods and Chattels shall be forfeited to the King; that must be understood of such an Estate as he may lawfully forfeit, and that is during his own Life; and these general Words do not take away the Force of the Statute, *do donis Conditionalibus*; but he shall forfeit all his Fee-simple Lands, States for Life, Goods and Chattels. And so it was resolved in *Trudgin's Case*. 1 *Inst.* 129. b.

By

The Ecclesi-
astical Courts
within the
Statutes.

By these Words in the abovesaid Statute of 16 R. 2. *In the Court of Rome, or elsewhere*, the Ecclesiastical Courts within this Realm are intended; and *Mich. 11. H. 7.* it was adjudged by the whole Court, That a Suit in the Ecclesiastical Court, for a temporal Cause, did amount to a Premunire. 3 *Inst.* 121.

And Court of
Admiralty.

It is held also, That the Admiral's Court is within this Word, *elsewhere*, if he hold Plea of any Thing which is not done *super altum Mare*, but *infra Corpus Comitatus*. *Ibid.*

By the King's
Court in the
Statutes, is
meant the
Courts of com-
mon Law.

If a Man makes a Promise of a temporal Thing, and swear to perform it, and doth it not, if he be sued for Perjury in the spiritual Court, a Prohibition, or a Premunire lieth in that Case. Also if a Man be excommunicate in the spiritual Court for Trespass, or such other Thing as belongs to the King's Crown, and his Royal Dignity, &c. the Party, if he will, may have a *Premunire facias* against him. *Inst.* 122.

Court of Equi-
ty.

And Sir *Edward Coke* held, That a Court of Equity could not proceed in any Case after Judgment had been given at common Law, for three Reasons, first, For that it draweth the Matter triable and determinable by the common Law, *ad aliud examen*, viz. to a Trial by Witnesses, which is contrary to the ancient Laws of the Realm, and against the Purview of these Statutes. Secondly, After Judgment the Parties ought, to be at Peace and Quiet, for *Justicia sunt tanquam Juris dicta*. And if the Party against whom Judgment is given, might after Judgment given against him at the common Law, go into a Court of Equity, for Matter in Equity, there either should be no End of Suits, or every Plaintiff would have the common Law, and begin in the Court of Equity, whither in the End he must be brought, and that would tend to the utter Subversion of the common Law, as it is said in the Act. Thirdly, The Court of Equity, in the Proceeding in Course of Equity, is no Court of Record; and therefore it cannot hold Plea of any Thing where-

of Judgment is given, which is a judicial Matter of Record. 3 *Inst.* 123.

A Premunire lieth as well for the Party, as for the King, and they both may join in one Writ. Premunire lies for the Party as well as the King. *Ibid.* 925.

If the Defendant come not at the Day, &c. by the exprefs Letter of the Law, Judgment shall be given against him, according to this Act. This Suit need not be by original Writ, but if the Defendant be in *Custodia Mareschalli*, the Suit may be against him by Bill; because the End of the giving of the two Months was, that they should have Notice, which is satisfied; and therewith agreeth the Presidents, and the Defendants cannot be sued in any other Court, when they are in *Custodia Mareschalli*. See the Statute of 18 *Eliz.* cap. 5. but that Statute extends to common Informers, and not when the Suit is commenced by the Party grieved. Suit may be by Bill.

But if the Defendant appear and plead, and the Issue be found against him, or if he demurr in Law, &c. Judgment shall be given against him, that he shall be out of Protection, &c. And so hath this Statute been interpreted, and Judgment given accordingly. 3 *Inst.* 124. Judgment of Premunire off Conviction.

He that procures one to sue to the Court Christian, shall forfeit as much as he that sueth as Principal, and is in equal Degree of Premunire; but if they both be indicted, the one of the Act, and the other of the Procurement; and he that is charged with the Procurement is found Guilty, and the other by another Enquest is found not Guilty; Judgment shall never be given against him, which was indicted of the Procurement, because he cannot be an Offender, but in respect of the Offence of the other. 3 *Inst.* 125.

This Act does not extend to the Forfeiture of No Rents for Fairs, Markets, Rents Charge, Rents Seck, Warfeited, &c. tens, Annuities, or any other Hereditaments, that are not within the Word *Terrc.* 3 *Inst.* 126.

Prisoners, and privileged Places. See Titles Arrests and Debtors.

Rape.

Rape.

3 Ed. 1. c. 13.
Penalty of a
Rape, two
Years Imprisonment, and
Fine.

THE King prohibiteth every Person to Ravish, or take away by Force, any Maid within Age, although by her own Consent, or any Wife or Maid of full Age, or any other Woman, against her Will; and if any one will sue such Offenders within forty Days, the King will do common Right; but if none sue within forty Days, the King will sue, and the Offender being convicted, shall suffer two Years Imprisonment, and be fined at the King's Pleasure, and if not able to pay his Fine, shall suffer longer Imprisonment, according to his Trespass. *Stat. 3 Ed. 1. cap. 13.*

13 Ed. 1. c. 34.
Felony to ravish a Woman at the King's Suit.

If one ravish a married Woman, Maid, or other, who does not consent neither before nor after, he shall have Judgment of Life and Member. So if a Man ravish a married Woman, Lady, Damofel, or other, although she consent after, he shall have like Judgment if attainted at the King's Suit, and the King shall have the Suit. *13 Ed. 1. cap. 34.*

6 Rich. 2. c. 6.
Woman consenting after, both Ravisher and Ravished forfeit their Inheritance.

Where any Woman shall be ravished, and afterwards consent to the Ravisher, both the Ravisher and Ravished shall be disabled to have or challenge any Inheritance Dower, or Joint Feoffment, after the Death of their Husbands or Ancestors, and the next of Blood respectively shall have Title immediately after the Rape, to enter upon the Lands of the Ravisher and Ravished, and the Husband of such Woman, if she have any, and if no Husband, the Father or next in Blood shall have the Suit against such Offenders. *Stat. 6 R. 2. cap. 6.*

18 Eliz. c. 7.
Benefit of Clergy taken from Rape.
And knowing a Girl under Ten, Felony.

The Benefit of Clergy is taken away from such Offenders as shall be guilty of Rape. And it is further declared, That if any Person shall unlawfully and carnally know and abuse any Woman Child, under the Age of ten Years, he shall be adjudged guilty of Felony, without Benefit of Clergy, *Whether it be done with the Consent of such Child or not.* 18 Eliz. c. 7.

READINGS.

Rape defined.

The Word *Rape*, signifies the having Carnal Knowledge of a Woman by Force, and against her Will: And the Word *Rape* (*Rapuit*) is so appropriated by Law to this Case, that it cannot be expressed by any Periphrasis or Circumlocution in the

the Pleadings, even the Words *Carnaliter cognovit eam*, or the like, will not serve. 1 *Inst.* 124. 2 *Inst.* 180.

A Nief or she Slave might have had an Appeal of Rape against her Lord, although a Man's Concubine could not. A common Whore may not be forced any more than another Woman; and if any Force be proved, the Offender will certainly be hanged. Nor will it avail him to shew, that the Woman did at length consent, if such Consent was obtained by putting her in Fear of her Life or Durefs, but it is always held to be a strong Evidence of a Woman's Consent, that she was a common Whore, and a Jury will hardly credit such a Woman's Testimony, where there are no Circumstances to corroborate her Evidence. Anciently it was held to be Evidence, that a Woman was not ravished, if she conceived by the Offender; but this Opinion is now exploded; but it is allowed to be a strong Presumption against a Woman, if she make no Complaint in a reasonable Time, though this will not conclude her. 1 *Inst.* 123. *b. Hawkins* 108.

A Woman's positive Oath of a Rape, without concurring Circumstances, is seldom credited. If a What Evi- Man can prove himself to be in another Place, or in vidence ne- other Company, at the Time she charges him with cessary to con- the Fact, this will overthrow her positive Oath. vict a Man. So if she is wrong in the Description of the Place, or swears the Fact to be done in a Place where it was impossible the Man could have Access to at that Time; as if the Room was locked up, and the Key in the Custody of another Person, this will take off much from her Evidence; and I remember one particular Case at *Hertford* Assizes, where the Woman deposed, That a Gentleman ravished her in a Pond that was dry at that Time, and the Prisoner brought Evidence to shew, that the Pond was then full of Water, and upon this the Jury acquitted him.

Altho' there be *emissio Seminis*; yet if there What amounts be no Penetration, it is no Rape, though it to a Rape. is said by some, that Emission is *prima facie*, an

Evidence of Penetration. 3 *Inst.* 60. *Hawk* 108. *State Trials*, Vol. 1. p. 265. f. *ibid.*

Punish'd formerly by Castration, and Loss of Eyes.

Anciently this Offence was punished by loss of Eyes, and Castration; unless the Woman who was ravished demanded the Offender for her Husband before Judgment passed, and in that Case he escaped, but by *Westm.* 2. cap. 34. her Election is taken away.

Who shall have the Appeal.

If a Woman be ravished by her next of Kin, and consents to him, and hath neither Husband nor Father, the next of Kin to him shall have the Appeal, for he hath disabled himself by the Rape. In an Appeal at the Suit of the Party, the Pardon of the King does not discharge the Offender, as it might in an Indictment at the King's Suit. Lord *Coke's Comment on Westm.* 2. cap. 34.

All who assist Principals.

Whoever assists in a Rape, is deemed a Principal, whether Man or Woman, and the Lord *Audley* was indicted and executed as a Principal, for assisting his Servant to ravish his own Wife, and the Lady was admitted an Evidence against him. *State Tryals*, Vol. 1. p. 265. f. 169. 8 Ed.

Standing mute.

It was resolved also in the Lord *Audley's Case*, That one standing Mute in Rape, might have his Clergy, but then he might be arraigned for Sodomy, and deny'd his Clergy: And that on an Appeal, the Prisoner might be hanged if he stood Mute, Vol. 1. p. 265. fol. ed. p. 169. 8 Ed.

Register.

2 Ann. c. 4.

A Memorial of all Deeds and Conveyances which after *Michaelmas* 1704, shall be made, and of all Wills and Devises made in Writing, where the Devisee shall die after the Time aforesaid, which may affect any Lands, Tenements, or Hereditaments in the West Riding of the County of *York*, may at the Election of the Parties concerned, be registred as in this Act is directed, and every Deed or Conveyance that shall (after any Memorial of them is so registred) be made of any Lands, &c. contained in such Memorial, shall be adjudged fraudulent and void, against any subsequent

chaise

chaser or Mortgagee; unless such Memorial thereof shall be registred as by this Act is directed, before the registering of the Memorial or Conveyance under which such subsequent Purchaser or Mortgagee shall claim: And every Devise of Lands, &c. contained in any Memorial so registred, which shall be made and published after the registering of such Memorial, shall be void against any subsequent Purchaser or Mortgagee, unless a Memorial of such Devise be registred, as in this Act is directed, for which see the Act at large. Stat. 2 Annæ, cap. 4.

An Act was made for making the said Register more 5 Ann. c. 18. effectual; and it was further enacted, That no Judgment, Statute, or Recognizance, shou'd affect any Lands or Tenements in the said West Riding, but from the Time of registering them. 5 A. cap. 18.

A Memorial of all Deeds and Conveyances which after 6 Ann. c. 35. Michaelmas 1708, shall be made, and of all Wills where the Testator shall die after that Time, which may affect any Lands, Tenements, or Hereditaments in the East Riding of the County of York, or in the Town of Kingston upon Hull, may be registred as in this Act is directed: And every Deed made after the 29th of September 1708, and every Devise by Will, of Lands, &c. after that Time, shall be adjudged fraudulent and void against a subsequent Purchaser or Mortgagee; unless a Memorial of the same be registred, as in this Act is directed. 6 Ann. c. 35.

The Provisions in this Act, shall extend to the West Riding. See the Act at large.

A Memorial of all Deeds and Conveyances which after 7 Ann. c. the 29th of September 1709, shall be made, and of all Wills, where the Devisor shall die after the said 29th of September, whereby any Lands, &c. in the County of Middlesex, may be affected either in Law or Equity, may be registred as in this Act is directed; and every such Deed or Conveyance, as shall after that Time be made, shall be adjudged fraudulent and void, against any subsequent Purchaser or Mortgagee, unless a Memorial thereof be registred, as by this Act is directed, before the registering of the Deed under which such subsequent Purchaser or Mortgagee shall claim. And every Devise by Will shall be adjudged fraudulent and void against any subsequent Purchaser, &c. unless a Memorial of such Will be registred according to this Act. 7 Ann. c. 20.

The abovesaid Acts do not extend to Copyhold Estates What Estates or Leases at a rack Rent, or to any Leases not exceeding are exempted 21 Years, where the actual Possession goeth along with from regist-

the Lease: Or to any Chambers in *Serjeants-Inn*, the Inns of Court, or Inns of Chancery.

And no Judgment, Statute, or Recognizance, shall affect any Lands in the County of *Middlesex*, but from the Time of the registering them. See the *Acts at large*.

Replevin. See *Titles*, *Avowry* and *Distresses*.

Riots.

THere shall be assign'd in every County, one Lord, and three or four of the most worthy Gentlemen, with some learned in the Law, to keep the Peace, who are impowred to restrain Rioters, and other Barretors; and to arrest and punish them according to their Demerits. *Stat. 34. Ed. 3. cap. 1.*

17 R. 2. c. 7. As soon as the Sheriff, and other the King's Ministers, shall hear of a Riot, Rout, or other Assembly against the Peace, they, with the Power of the County, shall apprehend such Offenders, and put them in Prison until delivered by Law. *Stat. 17. R. 2. cap. 7.*

13 H. 4. c. 7. If any Riot, Assembly or Rout of People against Law Justices, &c. be made, the Justices of Peace, three, or two of them may record at least, and the Sheriff, or the under-Sheriff of the County, shall come with the Power of the County, if it shall be a Conviction, need be, and arrest them; and the same Justices, Sheriff, or under-Sheriff, are empowered to record what shall be done in their Presence against Law; and by such Record, all such Trespassers and Offenders, shall be convicted according to the Statute of 15 R. 2. cap. 2. In the Cases of forcible Entries. *Stat. 13. H. 4. c. 7.*

Enquest to be taken if the Rioters are gone. And if such Trespassers and Offenders be departed, then the said Justices, three, or two of them, shall enquire within a Month after such Riot, &c. and shall hear and determine according to Law. *Ib.*

Justices to certify the Circumstances to the Council. And if the Truth cannot be found, in Manner aforesaid, then within one Month then next following, the Justices, three, or two of them, and the Sheriff, or under-Sheriff, shall certify to the King and Council, all the Fact, and the Circumstances thereof; which Certificate shall be of like Force as the Presentment of Twelve, and thereupon the said Trespassers shall be put to answer, and those who shall be found Guilty, shall be punished at the Discretion of the King and Council. *Ib.*

Traverse to be tried in the King's Bench. And if such Offenders shall traverse the Matter certified, then the Certificate and Traverse shall be sent into the King's Bench to be tried; and if the Offender do not appear

appear before the King and Council, or in the King's-Bench on the first Precept, then another Precept shall be directed to the Sheriff, to bring them before the King and Council, or into the King's-Bench, on a certain Day; and if they cannot be found, Proclamation shall be made in the next County, after delivery of the Precept, for them to appear before the King and Council, or the King's-Bench, or in Chancery, in Time of Vacation, within three Weeks following; and if the Offender come not in, and the Proclamation be returned, they shall be convict, and attainted upon the Rior, Assembly or Rout aforesaid. *lb.*

And the Justices of Peace dwelling nearest, where Pain of 100 l. such Rout, Assembly and Riot shall be made, together on Justices ne- with the Sheriff, and under-Sheriff of the County; and glecting their also the Justices of Assize, in Case any such Riot, &c. Duty. be made in their Presence, shall put this Statute in Execution, upon Pain of 100 l. as often as any of them shall be found in Default. *lb.*

If Default be found in any Justices of the Peace, Ju- 2 H. 5. c. 8. flices of Assize, Sheriff, or under-Sheriff, where such Commission Riot, Assembly or Rout shall be made, touching the Exe- to enquire of cution of the last mentioned Statute, then at the In- Defaults of stance of the Party grieved, the King's Commission shall Justices. issue to enquire as well of the Truth of the Case, and of the original Matter, as of the Defaults of the Justices, Sheriff, or under-Sheriff, directed to sufficient and indif- ferent Persons, at the Discretion of the Chancellor. And the said Commissioners shall immediately return into Chancery, the Inquests taken before them, and the Co- roners of the County shall make the Panel upon the said Commission, returnable for the Time, that any Sheriff, supposed in Default, shall continue in his Office, and no Person shall be returned on the Panel, but such as have Lands, Tenements, or Rents, to the Value of 10 l. per Annum. And the Chancellor, as soon as he shall have Knowledge of any Riot, Assembly or Rout, shall send the King's Writ to the Justices of Peace, and to the She- riff, or under-Sheriff of the County, requiring them to put the Statute in Execution; but if no such Writ issue, they shall not be discharged, on the Pain aforesaid, if they do not put the said Statute in Execution. *Stat. 2. H. 5. cap. 8.*

Provided that the said Justices, and other Officers, Notorious Ri- shall execute their Offices aforesaid, at the King's Cost, others to suffer and Payment thereof shall be made by the Sheriff of the a Year's Im- County, for the Time being; and such Offenders attaint- prisonment. ed of great and heinous Riots, shall suffer one Year's Im-

prisonment at least, without Bail or Mainprize; and Offenders attainted of petty Riots, shall suffer such Imprisonment as the King or his Council shall think fit. And the People of the County, where such Riots or Routs shall be, shall be Assistants to the Justices, Commissioners, Sheriff, or under-Sheriff, when they shall be reasonably warned to resist such Rioters, &c. upon Pain of Imprisonment, and making Fine and Ransom to the King. And Bailiffs of Franchise, shall in like Manner impanel such sufficient Inquests, if such sufficient Persons can be found in that Franchise; and the like Ordinances and Pains shall take Place in Cities, Boroughs, and

The same Law other Places enfranchised, which have Justices of Peace infranchises within them. *ib.*

Corporations. The Lord Chancellor upon Complaint made to him, 2 H. 5. c. 9. that a dangerous Rioter is fled into Places unknown; and 2 H. 6. c. 14. also upon a Suggestion under the Seals of two Justices of Peace, and the Sheriff, that the common Fame and Voice runneth in the County of the Riot, may award a *Capias* against the Party, returnable in Chancery upon a certain Day, &c. and afterwards a Writ of Proclamation, returnable in the King's-Bench, &c. Stat. 2. H. 5. c. 9. and 8. H. 6. c. 14.

19 H. 7. c. 13. Where any Riot, Rout or unlawful Assembly shall be committed, the Sheriff on a Precept directed to him, Jurors to enquire of a Riot, to have shall return four and twenty Persons dwelling within the County, whereof every Person shall have Lands and 20 s. *per Ann.* Tenements within the County, of 20 s. *per Annum* Freehold, or 26 s. 8 d. Copyhold, to enquire of such Riots, Routs or unlawful Assemblies; and he shall set upon every Person impannelled in Issues, at the first Day 20 s. at the second Day 40 s. if they appear not; and the Sheriff not returning such sufficient Persons, or Issues, as

Issues.

aforesaid, shall forfeit 20 l. And if any Maintainance or Embracery shall be found in the Jurors, and the Facts shall not be found by them, then the said Justices, Sheriff, or Under-Sheriff, shall in their Certificate certify

Maintainers and Embracers punish'd. the Name of the Maintainers and Embracers, upon Pain of 20 l. for not certifying the same; which Certificate shall be of like Force in Law, as if the Matter therein contained was found by the Verdict of twelve Men;

1 Geo. cap. 5. and every Person proved to be a Maintainer or Embracer, Clergy taken shall be committed to Prison during such Time as the Justices see fit. Stat. 9. H. 7. c. 13.

Rioters, who If any Persons, to the Number of Twelve, or more, continue together an Hour being unlawfully, riotously, and tumultuously assembled together, to the Disturbance of the publick Peace, after the last Day of July 1715, being required after Proclamation made,

by a Justice of Peace, Sheriff, or Under-Sheriff of the County, Mayor, or other Head Officers, or a Justice of Peace of any City or Town-Corporate where such Assembly shall be, by Proclamation in the King's Name, in the Form hereafter directed, to disperse themselves, shall to the Number of twelve or more, unlawfully, riotously, and tumultuously continue together, by the Space of one Hour, they shall be adjudged guilty of Felony without Benefit of Clergy. *Stat. 1 Geo. cap. 5.*

And the Justice of Peace, or other Person authorized Justice of by this Act to make the said Proclamation, shall among Peace shall the said Rioters, or as near to them as he can safely cause Procla- come, with a loud Voice command, or cause to be com- mation to be manded Silence while the Proclamation is making; and made. then shall openly, and with a loud Voice, make, or cause to be made, Proclamation in these Words, or like in Effect. *Ib.*

Our Sovereign Lord the King chargeth and commandeth Form of the all Persons being assembled, immediately to disperse them- Proclamation. selves, and peaceably to depart to their Habitations, or to their lawful Business, upon the Pains contained in the Act made in the first Year of King George, for preventing Tumults and riotous Assemblies.

God save the King.

And every Justice of Peace, Sheriff, Under-Sheriff, Justices of Mayor, Bailiff, and other head Officers, are required on Peace, Consta- Notice, or Knowledge of any such unlawful, riotous bles, &c. to or tumultuous Assembly, within their respective Limits, apprehend Of- to resort to the Place, and cause Proclamation to be fenders. made as aforesaid. And if such Offenders after Procla- mation made as aforesaid, shall continue together, and not disperse within one Hour; it shall be lawful for eve- ry Justice of Peace, Sheriff, or Under-Sheriff, where such Assembly shall be; and for every high or petty Consta- ble, or other Peace Officer within such County; and also for every Mayor, Justice of Peace, and other head Offi- cer, high or petty Constable, or other Peace Officer of any Corporation, where such Assembly shall be; and for such other Persons as shall be commanded to be assisting to such Justice of Peace, Sheriff, Under-Sheriff, Mayor, or other head Officer to apprehend, and they are required to apprehend such Persons so unlawfully, riotously, and tumultuously continuing together after Proclamation made, and to carry them before some Justice of Peace.

And if such Offender shall happen to be killed in the And indem- dispersing, or apprehending, or endeavouring to dis- nified if any perse, or apprehend them, by Reason of their resisting Offender be the killed.

the Persons endeavouring to disperse, or apprehend them; then every Justice of Peace, Sheriff, head Officer, Constable, or other Person aiding and assisting them, shall be indemnified for the killing or hurting of any such Person, so unlawfully, riotously, and tumultuously assembled. *Ib.*

**Demolishing
a meeting-
House, &c.
Felony with-
out Clergy.**

And if any Persons unlawfully, riotously and tumultuously assembled, to the Disturbance of the publick Peace, shall demolish or pull down, or begin to demolish or pull down any Church, Chappel, or any Building for religious Worship, certified and registred according to the 1 W. & M. c. 18. or any dwelling House, Barn, Stable, or other Out-house; every such Offence shall be adjudged Felony, without Benefit of Clergy. *Ib.*

**Hindring
Proclamation
Felony.**

And if any Person shall with Force and Arms, oppose, obstruct, or wilfully let or hurt any Person, that shall begin to proclaim, or go about to make Proclamation as aforesaid, whereby such Proclamation shall not be made; every such Offence shall be adjudged Felony, without Benefit of Clergy. And all such Persons so riotously and tumultuously assembled, to the Number of twelve, or more, to whom Proclamation should have been made, if the same had not been hindered, in Case they continue together, to the Number of twelve, or more, one Hour after such Let or Hindrance, having Knowledge of such Let, shall be adjudged guilty of Felony without Benefit of Clergy. *Ib.*

**And Offenders
nevertheless
Guilty.**

**The Hundred
to pay the
Damages on
demolishing a
meeting-
House, &c.**

And if any such Church or Chappel, or Building for religious Worship, or any such dwelling-House, Barn, Stable, or other Out-house, shall be demolished or pulled down, wholly, or in Part, by any such Offenders; then, if such Church, Building, &c. shall be out of a City, or Town, that is either a County of it self, or is not within any Hundred; the Inhabitants of the Hundred shall yield Damages to the Persons injured, by such demolishing or pulling down; which Damages may be recovered in the Courts at *Westminster*, against any two or more of the Inhabitants of such Hundred: Such Action for Damages to any Church or Chappel, to be brought in the Name of the Rector, Vicar or Curate in Trust, for applying the Damages to the rebuilding or repairing such Church or Chappel. And Judgment being given for the Plaintiff, the Damages recovered shall at the Request of the Plaintiff, his Executors or Administrators, be levied on the Inhabitants of such Hundred, and paid to the Plaintiff in such Manner as is provided by 27 *Eliz.*

for

for reimbursing Persons on whom any Money recovered against the Hundred, by any Person robbed, shall be levied. And in Case such Church, Building, &c. so damaged, shall be in any City or Town, that is a Meeting-County of itself, or is not within some Hundred; then such Damages shall be recovered by Action, brought as is provided in a House demolished in a Town, the or Town. And the Damages recovered at the Request of the Plaintiff, his Executors or Administrators, to the Justices of Peace at their Quarter-Sessions, for such City or Town, shall be levied on the Inhabitants, and paid to the Plaintiff, in such Manner as is provided by the said Statute of 27 Eliz. *Ib.*

And this Act shall be openly read at every Quarter-Sessions, and at every Court-Leet. *Ib.*

Provided that no Person shall be prosecuted for any Offenders to the Offences aforesaid, unless such Prosecution be commenced within one Year after the Offence. *Ib.*

And all Sheriffs, and their Deputy-Stewards, and Deputy-Bailiffs of Regalities, and their Deputies, Magistrates of Royal Boroughs, and all other inferior Judges and Magistrates; and also all high and petty Constables, and other Peace-Officers in Scotland, shall have the same Powers for putting this Act in Execution in Scotland, as the Justices of Peace, and other Magistrates aforesaid respectively have in the other Parts of this Kingdom. And all Persons convicted of any of the Offences aforesaid, in Scotland, shall for every such Offence incur and suffer the Pain of Death, and Confiscation of Moveables. *Ib.*

Provided that this Act shall extend to all Places for religious Worship in Scotland, which are tolerated by Law, and where King George, the Prince and Princess, and their Issue are prayed for. *Ib.*

R E A D I N G S.

Riotum cometh of the French Word, *Rioter* a Riot, Definition, and at common Law signifieth an assembling, three or more, to do any unlawful Act; as to beat any Man, or to hunt in his Park, Chase or Warren; or to enter or take Possession of another Man's Land, or to cut or destroy his Corn, Grass, or other Profit, &c. 3 Inst. 176.

Rout

Of Rout.

Routa is derived of the *French* Word *Rout*, and properly in Law signifieth when three or more do any unlawful Act, for their own, or the common Quarrel, &c. As when Commoners break down Hedges, or Pales, or cast-down Ditches, or Inhabitants for a Way claimed by them, or the like. *Ibid.*

Of unlawful Assembly.

An unlawful Assembly is when three or more assemble themselves together, to commit a Riot, or Rout, and do it not. *Ib.*

What Assembly may be deemed riotous, &c. and what not.

If a Number of Persons being met together at a Fair, or Market, or Church-Ale, or any other lawful and innocent Occasion, happen on a sudden Quarrel, to fall together by the Ears, they are not Guilty of a Riot, but of a sudden Affray only; because the Design of their Meeting was innocent and lawful, and the subsequent Breach of the Peace happened unexpectedly, without any previous Intention concerning it; yet it is said, That if Persons innocently assembled together, do afterwards, upon a Dispute happening to arise among them, form themselves into Parties, with Promises of mutual Assistance, and then make an Affray, they are guilty of a Riot; because upon their confederating together, with an Intention to break the Peace, they may as properly be said to be assembled together for that Purpose, from the Time of such Confederacy, as if their first coming together had been on such a Design: However, it is agreed, That if an Assembly of Persons met together on any lawful Occasion whatsoever, shall on a sudden Proposal go in a Body to pull down a House, or Inclosure, or to do any other Act of Violence, to the Disturbance of the publick Peace, and such Motion be executed accordingly, the Persons concerned cannot but be Rioters; because their associating themselves together for such a new Purpose, is no Way extenuated by their having met at first upon another. And if any Person seeing others actually engaged in a Riot, shall join with them, and assist them therein, he is as much a Rioter, as if he had at first assembled with them for the

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same

same Purpose; and his pretending that he came innocently into the Company will not avail him, it being unnecessary, as well as impossible to discover whether every particular Person engaged in a Riot, was in Truth one of the first Assembly, or actually had a previous Knowledge of the Design of the Tumult. 1 *Hawkins* 156. 6 *Mod.* 43.

Any Person may assemble a Number of Men to defend his House against Injury, or Violence; but it is said, If a Man be threatened, that if he come to such a Place, he shall be beaten, and he thereupon assemble a Company to go thither with him, though it be for the Safety of his Person, this may be deemed a Riot, because of the Danger the Government may be in from such Assembly; and for that the Law gives him another Remedy, viz. by demanding Surety for the Peace. *Bro. 1. Title Riot.*

But every Man in a peaceable Manner, may assemble a Company to do any lawful Thing, or to remove a Nuisance; and may also for that Purpose enter another Man's Ground. *Bro. Title Nuisance* 14. 33.

And where a Man had erected a Wear over a common River, and several People assembled with Spades, Crows of Iron, and other Things necessary, to remove the said Wear, and made a Trench in his Land, that did erect the Wear to turn the Water, so as they might the better take up the said Wear, and they did remove the same Nuisance, this was holden neither any forcible Entry, nor yet any Riot.

But if in removing such Nuisance, the Persons assembling use any threatening Words, as that they will do it, though they die for it, or the like, or their Behaviour be in apparent Disturbance of the Peace, then it will amount to a Riot; for the Manner of doing a lawful Thing, may render it unlawful. *But it must be done in a peaceable Manner.*

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What Circumstances there must be to make a Riot.

Piece of Timber, to which he pretends a Right, if the Number be no more than necessary for that Purpose, although another Man may have a better Right to the Timber, and this is an unlawful Act, yet is it no Riot, except there be some threatening Words used, or other Disturbance of the Peace, *Pulton cap. 137.* For in every Riot there must be some Circumstances of actual Force, or Violence, or which have an apparent Tendency thereto, and are likely to strike Terror into the People, as the Shew of Arms, threatening Words, &c. for this Offence is always laid to be done *in terrorem populi*; from whence it follows, that Persons assembled together in a peaceful Manner, to do a Thing prohibited by Statute, as the celebrating Mafs, &c. and peaceably performing the same, cannot be denominated Rioters. *Hawkins 157. 6 Mod. 141.*

Assembling to redress publick Grievances high Treason.

Corporations punishable for a Riot.

And these Grievances which any Number of People are assembled to redress, must be of a private Nature, as the throwing down an Inclosure, in which the Inhabitants of a Town claim a Right of Common; as the gaining Possession of Tenements, whereof the Title is in Dispute, and the like; for where a Multitude of People assemble to redress publick Grievances, as to break open Prisons, pull down all Inclosures in general, and reform Religion, or the State, or remove evil Counsellors, &c. if they attempt by Force to execute such Doings, this is levying War against the King, and high Treason in Law. 3 *Inst. 9. Kelynge 70. 76.*

It has been held by some, That the Persons of whom a Corporation consists, being guilty of a Riot, are punishable only in their natural Capacity, as private Persons; but there are Presidents, of Corporations, which have been amerced, and their Liberties seized into the King's Hands, for suffering a Riot within their Jurisdiction, and not endeavouring to suppress it.

Robberies.

Robberies.

ALL Men shall be ready and apparelled at the Summons of the Sheriff, and at the Cry of the County, to sue and arrest Felons, as well within Franchise, All Men to be as without, upon Pain of making grievous Fine to the King, and if the Lord of the Franchise make Default, sue Felons up the King shall seize the same; and if the Bailiff make on a Hue and Default, he shall suffer one Year's Imprisonment, and Cry. pay a grievous Fine; and if he have not where withal, he shall suffer two Years Imprisonment: And if any Sheriff, Coroner, or Bailiff of a Franchise, for fear, or favour, shall conceal, consent, or procure to conceal Felonies done in their Liberties, or shall neglect to arrest Felons, or otherwise will not do their Office, in Favour of such Offenders, they shall suffer one Year's Imprisonment, and pay a grievous Fine if they have where withal, and if not, shall suffer three Years Imprisonment. *Stat. 3. Ed. 1. c. 9. West. 1.*

Proclamation shall be made in all Counties, Hundreds, Markets, Fairs, and other Places, where there is great Resort of People, that immediately after any Robbery or Felony committed, fresh Suit shall be made from Town to Town, and from County to County. *Stat. 13. Ed. 1. cap. 1. Stat of Winch.*

If the County do not produce the Bodies of such Offenders, they shall be answerable for the Robberies done; and the Damages (that is) Every Hundred where a Robbery is done, with the Franchise therein, shall be answerable for the Robberies done there; and where a Robbery is done in the Division of two Hundreds, both the Hundreds, and the Franchises within them, shall be liable; and the Country shall have but forty Days to agree for the Robbery, and shall answer for the Bodies of the Offenders afterwards.

In great walled Towns, Gates shall be shut from Sun-set to Sun-rise, and no Person shall lodge in the Suburbs from nine of the Clock until Day, unless his Host will answer for him; and the Bailiffs of Towns, every Night, and Week, or fifteenth Day, shall make enquiry of all Persons lodged in the Suburbs, or Out-Parts of the Town; and shall call to account those who have lodged, or received Strangers, or suspicious Persons; and a Watch shall be kept yearly, from the Feast of *Ascension* to *St. Michael*, in Manner following, viz. In every City six Men shall keep at every Gate, every Borough shall have twelve, chaelmas.

Night Walkers to be arrested.

twelve, and every Town six, or four Watchmen, according to the Number of the Inhabitants, who shall watch from Sun-set to Sun-rise; and every Stranger passing by them, shall be arrested till Morning; and if he do not appear to be a suspicious Person, he shall be discharged, otherwise he shall be delivered to the Sheriff, who shall keep him till he is duly acquitted; and where any Person will not obey the Arrest, he shall be followed with Hue and Cry by all the Town, and the Towns near; and so Hue and Cry shall be made from Town to Town, until he be taken, and delivered to the Sheriff as aforesaid.

13 Ed. 1. c. 5. Highways leading from one market-Town to another, shall be enlarged, so that there be neither Dike, Tree be cleared and nor Bush, where a Man may lurk, to do hurt, within enlarged. two hundred Foot of the Way; so that this Statute do not extend to Ashes, or other great Trees. And if any Robbery be done, through the Default of the Lord, in not avoiding such Dike, Under-Wood, or Bushes, he shall

13 Ed. 1. c. 6. be answerable for the Felony; and if Murder be done, Sheriffs to be shall pay a Fine to the King. And the King willeth, prepared with That in his demean Lands and Woods, the Way shall Horses and be enlarged as aforesaid; and every Lord shall remove Arms, to pur- his Park, Pales, Wall, Dike and Hedge, two hundred sue Felons on Foot from the Highways as aforesaid.

a Hue and Cry. The Sheriffs and Bailiffs of Franchises, are required to take heed, that they follow the Cry with the Coun-

28 Ed. 1. c. 17. ty, and keep Horses and Armour for that Purpose, as Art. Chart. they are bound; and in Default thereof, shall be presented Stat of Winchester to be by the Constables to the Justices assigned, and by kept as strict them to the King, who will provide a Remedy.

as the great The Statute of Winchester shall be sent into every Charters. County, to be published four Times a Year, and kept in every Point as strictly as the two great Charters upon

5 Ed. 3. c. 14. the Pains therein limited; and the Knights of the Shires Persons suspected for redressing Things done against the said great Charters, shall be charged therewith. Stat. 28. Ed. 1. c. 17.

lony, to be Where any Persons shall be suspected to be Roberdismen, committed Waiters, or draw-Latches, they shall be arrested by the till the Affi- Constables, and be delivered to the Bailiff of the Franchise, or Sheriff, to be imprisoned till the coming of

28 Ed. 3. c. 11. the Justices of Goal-Delivery. Stat. 5. Ed. 3. c. 14.

7 Ric. 2. c. 6. The Statute of Winchester for making of fresh Suit, and Hue and Cry, is confirmed. Stat. 28. Ed. 3. c. 11.

Stat. Winchester to be pro- The said Statute of Winchester is again confirmed, and claimed in e- required to be proclaimed by the Sheriff in Person, four very Town Times a Year, in every Hundred of his County; and by

four Times

Year.

his Bailiffs in every market-Town, as well within Liberties as without. *Stat. 7. R. 2. c. 6.*

Where any Person shall be robbed, and the Robber convicted, or otherwise attainted of the Felony, upon Writs of Restitution of such Money and Goods, in like Manner as if such Felon were attainted at the Suit of the Party in Appeal. *Stat. 21. H. 8. c. 11.*

The Statutes of *Winchester*, and 28 *Ed. 3.* are recited, 27 *Eliz. c. 13.* and it is enacted, That the Inhabitants of every Hundred, who shall make Default in pursuing Felons, and neglecting to fresh Suit after Hue and Cry made, shall forfeit one half of the Damages, to be recovered of the Hundred, where Hue and Cry, any Robbery or Felony shall be committed, to be recovered by Action of Debt, Bill, Plaint or Information, in the Courts at *Westminster*, in the Name of the Clerk of the Peace of every County, where such Robbery and Felony shall be committed. *Stat. 27. Eliz. c. 13.*

And in Case such Clerk of the Peace shall die, or be removed, no Action, &c. so commenced, shall be discontinued; but may be prosecuted by the succeeding Clerk of the Peace, as the former Clerk might have done. *Id.*

And whereas the Recovery and Execution by and for Contribution the Party robbed, is had against one, or a very few of the Inhabitants of the Hundred, who have no Remedy for reimbursement by the rest of the Inhabitants, where such Robbery is committed, it is hereby enacted, That after Execution of Damages by the Party robbed, upon the Complaint of the Party so charged, it shall be lawful for two Justices of Peace, *Quor' Un'* inhabiting within the Hundred, or near it, where any such Execution shall be had, to assess, and tax rateably and proportionably every Town, Parish, Village and Hamlet, within such Hundred, and the Liberties within the same, towards an equal Contribution. And after such Taxation, the Constables and Headboroughs of every such Town, Parish, Village and Hamlet, shall have power within their several Limits, rateably and proportionably to tax and assess every Inhabitant therein; and if any Inhabitant shall obstinately refuse to pay the said Taxation, and Assessment,

Assessment, then it shall be lawful for the said Constables and Headboroughs, to distrain the Goods and Chattels of such Refusers, and sell them for the Use aforesaid, returning the Overplus to the Persons distrained. *Ib.*

And every Constable and Headborough, after they have collected the said Rates, shall within ten Days pay and deliver the same unto the said Justices of Peace, or one of them, to the Use of the Inhabitants for whom such Rate was made, to whom the Justices shall deliver over the same upon Request. *Ib.*

And the like Taxation, Assessment, Distress and Payment shall be in every Hundred, where Default was made, of fresh Suit, for the Benefit of the Inhabitants of such Hundred, where Damages shall be recovered against them, for the Payment of the Moiety of the Money recovered against any Hundred, where a Robbery shall be committed. *Ib.*

If any one of the Robbers is taken within forty Days, the Hundred shall not answer Damages.

Hue and Cry must be followed by

Horsemen and Footmen.

Notice must be given to the next Village of the Robbery.

Oath of the Robbery to be made before a Justice of Peace, within twenty Days before Action brought.

29. C. 2. c. 7. Robbery on a Sunday.

Provided, that where-ever any one Felon shall be apprehended by Pursuit made according to this or any former Laws, that then no Hundred or Franchise shall incur any Pain or Forfeiture by this or the said former Statutes, although the rest of the Felons shall happen to escape. *Ib.*

And no Hue and Cry or Pursuit to be made by any County or Hundred, shall be taken to be a lawful Hue and Cry or Pursuit, unless the same be made by Horsemen and Footmen. *Ib.*

And no Person robbed, shall have any Benefit by the said Statute, except he shall with as much convenient Speed as may be, give Notice of the Felony and Robbery, unto some of the Inhabitants of some Town, Village, or Hamlet, near the Place where such Robbery shall be committed: Nor shall bring any Action upon any of the Statutes aforesaid, unless he shall within twenty Days next, before such Action brought, be examined upon his Oath, to be taken before some Justice of Peace of the County where the Robbery was committed, inhabiting within the said Hundred where the same was committed, or near unto the same, whether he doth know the Parties that committed the said Robberies, or any of them: and if he shall confess he knows any of the Felons, then before the Action brought, he shall enter into a Recognizance before the said Justice, effectually to prosecute them by Indictment, or otherwise, according to the due Course of Law. *Ib.*

If any Person travelling on Sunday, shall be robbed, he shall be disabled to bring any Action against the Hundred; but the Inhabitants shall make Hue and Cry upon

upon Notice of such Robbery, upon Pain of forfeiting to the Crown, as much as might have been recovered against the Hundred, if this Act had not been made. Stat. 29. Car. 2. c. 7.

Whoever shall apprehend a Highwayman, and prosecute him till he be convicted of any Robbery, committed in or upon any Highway, Passage, Field or open Place, shall receive of the Sheriff of the County, for every Offender so convicted 40 l. within one Month after such Conviction, and demand thereof by tendering a Certificate to the Sheriff, under the Hand of the Judge, before whom such Conviction is, That such Felon was taken by the Person or Persons claiming the said Reward. Stat. 4. & 5. W. & M. c. 9.

And the said Judge shall by his Certificate direct the said Reward to be paid, to and amongst the Persons claiming the same, in such Shares and Proportions as he shall think fit. *Ib.*

And the Sheriff making Default in Payment, of such Sum after Demand, and Certificate brought as aforesaid, shall forfeit to the Persons to whom it is due, double the Sum he ought to have paid them, to be recovered by Action of Debt, &c. in any of the Courts at Westminster, with treble Costs. *Ib.*

And in Case any Person shall be killed in apprehending or pursuing such Robber, then the Executors or Administrators of the Person killed, upon a Certificate thereof from the Judge of Assize of the County, where the Fact was done, or the two next Justices of Peace, shall receive 40 l. of the Sheriff, on Pain of forfeiting double the said Sum, to be recovered as aforesaid, with treble Costs. *Ib.*

And the Sheriffs are authorized to deduct the said Sum of 40 l. so paid, in their Accounts; and if the Sheriff have not Money in his Hands, to reimburse himself, he shall be repaid it by the Treasury. *Ib.*

And the Person apprehending such Robber, shall have The Persons as a farther Reward, his Horse, Furniture, Arms, Money or other Goods, which shall be taken with him; to the King's Title, or that of any other Lord of a Manor, &c. or of him who let, or lent the same to such Robber notwithstanding; provided that this shall not extinguish the Right of any Person from whom the same were before feloniously taken. *Ib.*

And if any Person who shall commit any Robbery, shall, (being out of Prison) discover two or more Persons who have committed any Robbery, so as they may be convicted, he shall have their Majesty's Pardon for the same.

all Robberies committed before that Time, which shall also be a good Bar to any Appeal. *Ib.*

READINGS.

Robbery defined.

Robbery is a Felony committed by a violent Assault upon the Person of another, by putting him in Fear, and taking from his Person his Money, or other Goods of any Value whatsoever. *3 Inst. 68.*

It is derived *de la Robe*, both because they sometimes bereave the true Man of some of his Robes, or Garments, and also for that his Money or other Goods are taken from his Person; that is, from, or out of some Part of his Garment, or Robe about his Person. It is in Law called *Robberia & Rapina*, and the Thief *Raptor*. *3 Inst. 68.*

This is Sir Edward Coke's Opinion of the Derivation of the Word Robber; but others think Robbers were so called from one Robert, who was the Head of a Gang of Highwayman, who long infested the great Roads; and the rather, because the *5 Ed. 3. cap. 14.* gives the Term of *Robberd-f-men* to such Felons.

There is this Difference between a Robber and a Cut-Purse, though both take from the Person; the one takes it *clam & secrete*, without Assault, or putting in Fear; and the Robber by violent Assault, and putting in Fear. If one cut a Purse with Money in it, above twelve Pence, he shall be hanged, and the Benefit of Clergy is taken from him. And for this Reason, when the Jury have a Mind to save a little Thief, they usually find the Goods taken to be but of the Value of *10 d.* though they may perhaps be of twenty Times that Value. *3 Inst. 68.*

Indictment.

The Words in an Indictment for a Robbery, are, *A Persona, I. S. violenter & felonice cepit & aspertavit in magnum prodicti, I. S. Terrorem.*

What is deemed a taking from the Person, in Law.

There is a taking in Deed, and a taking in Law; as when a Thief only receives Money or Goods of a Traveller, or if he compels him for Fear

Fear of Death, to swear that he will fetch him a Sum of Money, and he delivers it, this is a taking in Law, and adjudged a Robbery; and in this Case there needs no special Indictment, but the general Indictment, *Quod violenter & felonice cepit*, is sufficient; and so it is where a Man for Fear delivers his Purse to the Thief at first.

And the Word *Cepit* necessarily implies, that the Thief must be in Possession of the Thing stolen; for Example, If the Bag or Purse of the true Man be fastened to his Girdle, &c. and the Thief the more easily to take the Bag, or Purse, do cut the Girdle, whereby the Bag or Purse fall-eth to the Ground, this is no taking; for the Thief had never any Possession thereof, & *sic de No re-delivery-
similibus*; but if the Thief had taken up the Bag or Purse, and in striving had let it fall, and never took it again; or if finding little in the Purse, he deliver it with all the Money to the Party again, this is a felonious taking, because he had it in his Possession; for the Continuance of his Possession is not required by Law. 3 *Inst.* 69.

And where a Man throws his Money into a Bush, to conceal it from the Thief, who perceiving it, takes it up, this is deemed in Law a taking from his Person; so if a Man had thrown off his Coat, and while it lies in his Presence, a Thief assaults him, and takes his Coat, this is a Robbery; for that which is taken in his Presence, is in Law taken from his Person; so if a Thief takes a Man's Horse that stands by him, or the like.

And though the Money or Thing thus violently taken, be of never so small a Value, as but a Penny, or Twopence, it is nevertheless a Robbery; but something must be taken, for an Assault only to rob, without taking some Money, or Goods, is no Felony. *Ib.*

Where there is a Gang of Highwaymen, and All Guilty, one of them only takes the Traveller's Money, tho' one of they are all in Law guilty of a Robbery; and where a Gang of Highwaymen go out with an Intent to rob a certain Person, and miss of him,

and one of them rides out of the Sight of the rest, and robs a third Person, and then returns to them, they are all said to be guilty; because they came together with an Intent to rob, and assist one another in it. *Pudsey's Case 28 Eliz.*

If one assaults a Person to rob him, and in flying away his Hat falls off, and the Thief takes it up, this is a Robbery. *Crompton 35.*

On the other hand, If a Man leaves his Horse tied to a Place, and goes out of Sight; or if a Carrier follows his Horses at a Distance, and they are taken by a Thief, this is not a taking from the Person, or a Robbery.

Hue and Cry. Hue and Cry Sir *Edward Coke* derives from the French Word *Huer*, to hoot or shout, in *English* to cry; and there are two Kinds of Hue and Cry, one by common Law, and the other by the Statute; and thereupon there are two Punishments, one for the King, and the other for the Parties by private Suit.

Hue and Cry by the common Law, or for the King, is when any Felony is committed, or any Person grievously and dangerously wounded, or any Person assaulted, and offered to be robbed, either in the Day, or Night, the Party grieved, or any other, may resort to the Constable of the Town, and acquaint him with the Causes, describing the Party, and telling which Way the Offender is gone, and require him to raise Hue and Cry. And the Duty of the Constable is to raise the Power of the Town, as well in the Night as in the Day, for the Prosecution of the Offender; and if he be not found there, to give the next Constable Warning, and he the next, until the Offender be found: And this was the Law before the Conquest. *3 Inst. 116.*

All bound to follow the Hue and Cry. *Bracton* who wrote before any Act of Parliament concerning Hue and Cry, saith, *Omnes tam Milites quam alii qui sunt 15 Annorum, & amplius jurare debent quod ut lagatos Murditores, Robbatores, & Burglatōres non recipient; &c. Et si Hutesium vel Clamorem de talibus audiverint statim audito cla-*

more

more sequantur cum familia, &c. And herewith agreeeth Britton. 3 *Inst.* 116.

If a Man be robbed in his House, by Night or Day, the Hundred shall not be charged. 7 *Coke*, *Sandal's Case*. *Cro. Eliz.* 753.

And although the Words of the Statute are general, and do not mention any Time of Day the Robbery should be committed in, in the Case of *Ashpole*, where a Robbery was committed in January, after Sun-set, but during the Day-light, it was adjudged the Hundred should be answerable, because this was a proper Time for People to travel about their Business; and with this agreeeth the Book of 3 *Ed. 3. Title Crown*, That if one kill another in the Evening, and escape, the Town shall be amerced by the common Law, for this is accounted Part of the Day, and not of the Night; but it was resolved in *Mibourn's Case*, that the Hundred should not be charged for a Robbery committed in the Morning, before Day-light. *Cro. Eliz.* 753.

Hundred liable, if the Robbery be committed before it be dark.

And it is held to be Night Time in this Case, when it is so dark that one Man cannot know another's Face.

The Robbery must be committed in or near the Highway, to entitle the Party to an Action against the Hundred.

Where a Person was robbed on the Highway, What Notice which lay within two Hundreds, it was held sufficient to give Notice to the Inhabitants of any one of them, *Cro. Jac.* 675. And if Notice be given in another Hundred, near the Place of the Robbery, it is sufficient.

If a Servant be robbed of his Master's Goods, Who may prosecute the Master may sue the Hundred; but the Servant shall be examined upon Oath, if he knew give Evidence the Robbers; and either Master or Servant may be a Witness to prove the Value of the Goods: And if a Carrier be robbed of another Man's Goods, either he or the Owner may sue the Hundred; but the Carrier must give Notice, and make Oath as aforesaid. 2 *Saund.* 379.

Goods specified in the Declaration.

The Plaintiff ought to shew in his Declaration against the Hundred, the Particulars of the Goods lost, and to what Person they belong; but the Plaintiff shall have Judgment for what is well laid in the Declaration, though in other Parts it be defective. *Ibid.*

A Man assaulted in one Hundred, and robbed in another.

In an Action brought against the Hundred, it appeared, that the Party was assaulted by the Thief in one Hundred, and fled from him, and was taken, and robbed in another Hundred, the whole Court were of Opinion, That the Hundred only where he was robbed should be chargeable. *Mich. 10. Car. 1. Dean's Case, Hutton 125.*

It has been held, That where a Carrier is robbed by his Son, and his Servants, he is nevertheless entitled to his Action against the Hundred; but the Conspiracy may be urged in Mitigation of Damages. *Mich. 1654. B. R. Matthew and the Hundred of Goldalming's Case, Style 427.*

An Action was brought against the Hundred, the Plaintiff having made Oath, That he was robbed by four Persons, and that he did not know them, (or any of them) being omitted; and it was doubted whether the Oath so taken was a sufficient Foundation for the Action. *3 Lev. 328.*

In an Action on the Statute of *Winton*, by *Constable versus Homines Inhabitantes in Dimid Hundred de Waltham*, the Court gave Judgment for the Plaintiff; for the Court will intend it to be a whole Hundred after Verdict, although it be called an half Hundred; and in Fact it had a Hundred Court by itself, and if it were otherwise, it ought to have been pleaded, or given in Evidence.

A Precedent was there shewn of a like Action, *versus Inhabitantes in Hundredo de W. Communit vocat*, the half Hundred of *W——* *Hob. 246.*

Occupiers of Lands chargeable

Restitution awarded.

Every Person who uses Lands in the Hundred is chargeable, although he do not dwell there. *2 Saund. 423.*

By the common Law, a Person was not entitled to a Writ of Restitution, unless he made fresh Suit after the Felon, but by *21 H. 8. cap. 11.*

If a Felon robs one of his Goods, and he is convicted by the Evidence of the Party robbed, or by others, where he is Prosecutor, the Justice before whom the Offender is tried, may award Restitution in like Manner, as if the Felon had been attainted at the Suit of the Party in Appeal; and although the Statute mention only the Party robbed, yet his Executors or Administrators may have such Writ. *3 Inst.* 242.

Also where the Felon is out-lawed upon the Indictment, by Means of the Party robbed, he shall have Restitution. *Dalton cap.* 122.

Where Goods have not been sold in open Market, (or waved or seized by the King's Officers, or Lord of the Mannor) the Owner may take them again wherever he finds them, without Restitution being awarded. One may re-
take his Goods
where he finds
them.

Where Hue and Cry is levied after any Person, either by common Law, or by Force of the Statute, the Arrest of such a Person is lawful, although the Cause of such Hue and Cry be feigned; tho' he that levied it, is liable to be punished by Fine and Imprisonment. *3 Inst.* 118.

In an Action of false Imprisonment, the Defendant justified, That a Felony was committed, and that by the common Fame of the Country the Plaintiff was a loose disorderly Fellow, and had committed the Felony; and that the Party robbed came to the Constable, and required him to apprehend the Plaintiff; whereupon the Constable commanded the Defendant to aid and assist him, which is the same Trespass, &c. *Et per Keble, Vavasour and Townshend*, it was held to be a good Plea, and that it was lawful to apprehend the Plaintiff on the Suspicion of the Party robbed. *Bro. tit. Faux Imprisonment* 14.

And if a Man hath good Cause to suspect that a Felony is committed, and that such a Person is guilty of it, and thereupon proceeds in the ordinary Course of Law, and causes him to be indicted; an Action will not lie against the Prosecutor, although no Felony was in reality committed.

14 Jac. 1. Wells versus Wells, B. R.

Punishment
of maiming
or dismem-
bering a Person

Anciently where a Person set upon another, and maimed or dismembred him, the Offender was to give Limb for Limb; but afterwards he was only punishable by Fine and Imprisonment; and the cutting off an Ear, or Nose, was not so much as interpreted a Maim, because the Sufferer was not thereby the less able to serve his Country in the Wars, or get his Living, *Vid. 3. Inst. Title Maim.* But by the 22 & 23 *Car. 2. cap. 1.* it was enacted, That if any Person of Malice, Aforethought, and by lying in Wait, unlawfully cut out, or disable the Tongue, put out an Eye, slit the Nose, cut of a Nose or Lip, or cut off, or disable any Limb, or Member of any Subject; the Person and Persons so offending, their Counsellors, Aiders and Abettors, knowing of, and privy to the Offence, are declared to be Felons, and shall suffer Death without Benefit of Clergy.

Before this Statute, it was less penal to maim or dismember a Man, than to rob him of a Shilling; and at this Day, where a Villain wounds a Man, in any less Degree than is here-mentioned, he shall only be fined and imprisoned.

By 24 *H. 8. cap. 5.* If any Person be indicted, or appealed for killing a Person attempting to commit a Robbery or Murder, such Person shall be acquitted, and shall forfeit nothing.

A Servant may justify killing a Robber in Defence of his Master.

Killing a Rob-
ber justifiable.

And any private Person may justify killing a Felon, who stands upon his Defence, or flies, so as he cannot be apprehended alive.

Felon shall

have the Use
of his Goods
and Money in
Prison.

Where a Man is indicted of Felony, his Goods shall not be seized, and removed out of his House, till he is attainted; but they shall be in the Custody of the Neighbourhood, and he shall have what is necessary for his Use and Maintenance out of them, in the mean Time. *Brooke Tit. Forfeiture 242.*

One who finds
Goods, an-
swerable for
them.

Where a Person happens to lose his Goods upon the Road, and another finds them, he is generally chargeable for them to the Owner, in whose ever Hands they come afterwards; indeed if

if the Person who found them, casually lose them again, he shall not be answerable for them; but if he sell or embezel them, he certainly shall, *Brook Tit. Detinue* 228. But if the Goods have been fairly sold in open Market, the Owner cannot have them again in Specie: It is otherwise where a Person is robbed, and prosecutes the Felon to Conviction; for there he shall have his Goods again, although they have been sold in open Market. *Brook Tit. Estray* 298.

Trespass, Assault, Battery and Imprisonment at D, in the County of S, the Defendant justified, That the Plaintiff was at R, in the same County, in a Way leading from P. to Q, and that he lay in Wait there to rob the King's People; that one Alice S. was riding by, against whom the Plaintiff drew his Sword, and commanded her to deliver her Purse; and the Woman levied Hue and Cry (cried out) whereupon the Defendant being near the Place, and hearing the Noise, came to her Assistance, and took the Plaintiff; and because there were no Stocks in that Place, he brought him to S, and delivered him to the Constable, which is the same Battery, &c. *per Cur.* The Justification is good, although no Felony was actually committed; and if one sees a Person about to kill another, he may apprehend him, and confine him; and where a Person is about to commit a felonious Act, any one may arrest him, *Bro. Tit. Trespass* 184. Also one may justify the beating of another in Defence of his Goods, *Ibid.* 185.

Where two Servants are robbed of their Master's Money, in the Absence of the Master, each of them must make Oath of the Robbery, &c. And in a Case where one of the Servants being a Quaker, refused to swear, it was held insufficient to charge the Hundred, with the Money in the Quaker's Custody. *Shower's Reports* 94.

Money was delivered to a Carrier, to carry to London; he put it up into a Pack, and Thieves set upon him in one Hundred, and took his Horse with the Pack, and led him into another Hundred, and there rifled the Pack; it was re-

A Person taken by a Felon in one Hundred, and rifled in another, the first Hundred solved, chargeable.

solved by the whole Court, That this was a Robbery within the first Hundred, and not within the second, for it was a Robbery from the first taking; but it was said, if the Carrier had led his Horse himself, he would have been deemed to have been still in the Possession of him, and consequently there could have been no Robbery till he came into the second Hundred: And a Case was cited, where a Man's Pocket was picked of his Purse, and the Thief taken in the Manner, but a Key being fastned to the Purse, it still hung upon his Pocket; and it was the Opinion of the Justices, that the Owner remained in Possession of the Purse, and therefore there could be no Larceny. *Pasch. 30. Eliz. C. B. Goldsb. 86.*

One who is to have a Profit for keeping, or carrying Goods, will be answerable for them, if he is robbed.

Where one delivers Money or Goods to his Friend, to carry to such a Place, or to keep for him, while he calls for them, and his Friend receives them to keep, as he does his own, and it happens, his Friend to whom he delivered them is robbed; in this Case, the Friend shall not be answerable for the Loss; but it is said, where no such Caution is used, or Declaration made on the Receipt of them, he shall be chargeable, *Brook Tit. Detinue 127. b.* But I take the Law to be otherwise at this Day; and that if the Party to whom such Money or Goods is delivered, is to have no Consideration allowed him for his Trouble and Care, he shall not be responsible for the Loss, if he be robbed, though no such Declaration be made; but whoever is to receive a Profit for the safe keeping, or carrying Goods or Money, it is agreed, shall be answerable for them, if they miscarry.

An Action lies against a Justice, who refuses to take the Examination of one robbed.

If my Servant is robbed, and goes to a Justice of Peace, and prays to be examined touching the Robbery, and the Justice refuse to examine him, so that I am thereby damnified, and cannot proceed against the Hundred, I may have an Action against the Justice; for the Examination by him in this Case is not as Judge, but as a particular Minister, by the Act appointed for this Purpose.

The

The Case of *Green* against the Hundred of *Buckle-Church*. *Trin.* 31 *Eliz.* 1 *Leon.* 323.

If Robbers shall force a Coach or Waggon to drive out of the Way, in the Day Time, and afterwards rob them in the Night; this shall be deemed a Robbery in the Day, and an Action will lye against the Hundred, 1 *Syd.* 263. *Pledal versus* the Hundred of *Thistleworth*.

An Action was brought upon the Statute of *Winton*, the Defendants pleaded, That they made Hue and Cry, and that within forty Days they took one *Dudley*, which was one of them that did the Robbery, and had him in Custody; the Plaintiff replied, That *Dudley* was not taken upon their fresh Pursuit, *modo & forma*. Upon this Issue the Jury found that the Hundred made the Hue and Cry, and that Sir *Joseph Ash* finding *Dudley* in the Presence of Sir *Philip Howard*, a Justice of Peace of *Westminster*, at his House in *Westminster*, the said Sir *Joseph* being an Inhabitant of the Hundred of *Thistleworth*, where the Robbery was, charged *Dudley* with this Robbery, before Sir *Philip*, who promised he should appear at the Sessions at the *Old-Bailey*. By the Opinion of *Hale Ch. Justice*, *Twisden*, *Rainsford* and *Moreton*, Judgment ought to be given for the Defendants; for the charging of *Dudley* with the Robbery, in the Presence of a Justice of Peace, was clearly a taking within the Statute. It was observed the Statute of *Winton* doth not say, shall take, but shall answer the Bodies of the Offenders; and therefore if the Felon be taken upon another Account, and the Country finding him in Prison, cause him to be indicted, this satisfies the Statute. 1 *Vent.* 118. 235.

In which Cases the Hundred shall be discharged, if the Robber be taken within forty Days.

Fresh Suit upon a Robbery has no certain Definition, but it is now settled, that it shall be determined by the Discretion of the Justices. *Kelynge* 96.

Court to determine if fresh Suit was made.

Where the Thief is convicted at the Suit of the Party robbed, he shall have Restitution of his Goods, although they have been sold in open Market; and where Horses are stolen and sold in open

Restitution of stolen Goods.

open Market, and the Owner claims them again, within six Months, and pays the Buyer as much as they cost him, he shall have them again without Prosecution. 31 *Eliz. cap. 12.*

Note, If Goods be stolen, and not waived in Flight, nor seized by the King's Officers, the Party robbed may take his Goods again, or bring his Action for them, although he doth not prosecute, if they have not been sold in open Market; but if the Goods be waived by the Felon in his Flight, or if they were seized by the King's Officers, there the Party shall not have Restitution, unless the Thief be convicted at his Prosecution; and in such Case, the Party shall have Restitution only for such Goods as are expressed in the Indictment. *Kelynge 48.*

Sale of stolen
Goods to a
Broker void.

A Sale to a Broker, within the Bills of Mortality, is not deemed a Sale in open Market; and if they refuse to shew any such Goods, sold or pawned to them, they forfeit double the Value, 1 *Jac. 1. c. 21.* and the Party robbed may have his Action against them for the Goods, whether he prosecute the Felon or no; for the Property remains in the Owner, notwithstanding such Sale. *Kelynge 50.*

Town amerced
for not
taking a Man-
slayer.

If any Man be slain in the Day Time, and the Felons not taken, the Township shall be amerced. *Kelynge 5.*

Notice of a
Robbery to
the next Hun-
dred good.

In a Robbery committed at *Shelly and Ridge*, in the County of *Hertford*, Hue and Cry, and Notice of the Robbery was at *South-Mimms*, in the County of *Middlesex*, but near the Hundred where the Robbery was committed, and it was resolved, that this was good Notice, though in another County. *Gro. Car. 41. 379.*

Oath must be
made before a
Justice of
Peace resident
in the County.

One being robbed in *Berkshire*, made Oath before *Saunders* a Justice of Peace, and Inhabitant of the same County and Hundred where he was robbed, within twenty Days before the Writ brought according to the Statute; but this Oath was administered and taken in *London*, and held, That the Direction of the Statute was well pursued. *Gro. Car. 211.* But Sir *David Dalrymple's* Case

Case at *Bedford* Affizes differed something from this, for he took his Oath before Mr. *Farrer*, a Justice of Peace of *Bedfordshire*, in *London*, and it was shewn at the Trial, that Mr. *Farrer* was Commorant in *London*, and kept no House or Servant in *Bedfordshire*, and therefore in no Sense could be deemed Resident there, whereupon Sir *David* was non-suited.

By 2 *Ed. 3. c. 3.* it is enacted, That none shall Lawful now go or ride armed in Affray of Peace, on Pain to to ride armed. forfeit their Armour, and to suffer Imprisonment at the King's Pleasure; and that all Justices of Peace, Mayors, Bailiffs, Constables, &c. shall have Power to execute this Act. This was enforced by 7 *Ric. 2. cap. 13.* and 20 *Ric. 2. cap. 13.* But at this Day it is held, That the wearing of Arms upon the Road, is not within the Meaning of this Statute, unless it be accompanied with such Circumstances as may reasonably create Terror; and that Persons of Quality may arm their Attendants as well as themselves for their greater Security in travelling.

Where one is unjustly and maliciously prosecuted for Felony, and is acquitted, he may have charging an Action against the Prosecutor, as was the Case innocent Person with Felony. of the five *Frenchmen* in the Reign of King *Charles the Second*, who recovered 400 *l.* Damages.

My Lord Chief Justice *Hale*, in his Pleas of Prisoner to be eased of his the Crown, *p. 212.* says, That the Prisoner ought not to be in Irons at his Arraignment and Trial; but I suppose he means so loaded with Irons, as to put him to any Torture, and make him unfit for his Defence, for the common Practice is otherwise.

Persons apprehended upon Suspicion of Robbery, ought not to be committed by a Justice of Peace, without Oath. Trial of the five *Frenchmen*.

No Copy of an Indictment, or Council is allowed, in Cases of Felony, unless some special Point of Law arise, and there Council may be granted. *Sydney's Trial 7.*

Persons

Examination of Felons by a Justice. Persons accused of Felony, who for want of Bail are to be sent to Prison, must be examined before the Justice of Peace, before he commits them, and the Accusers must be bound over to appear, and prosecute at the next Goal-Delivery, whose Examination must be taken and committed to Writing, within two Days at farthest, and certified by the said Justice, with the Bonds or Recognizances of the Accusers, at the next Goal-Delivery. *Stat. 2. & 3. Ph. & M. cap. 10.*

The Examination of the Offender before the Justice, must only be subscribed by him, and not upon his Oath; but the Examination of others, must be upon Oath. *H. P. C. 262.*

These Examinations, if the Party be dead, may be given in Evidence. *H. P. C. 263.*

Wife no Evidence. The Wife ought not to be produced as Evidence, either for or against her Husband, *Co. Lit. 6.* But in my Lord *Audley's Case*, his Lady was admitted an Evidence against her Husband.

Derefs. Where a Goaler keeps his Prisoner in such Durefs, that he dies by Reason of the Hardship, he is guilty of Felony; and therefore where a Prisoner dies, the Coroner shall sit upon him, and enquire how he came by his Death. *Co. 3 Inst. 91.*

Mute. A Person standing Mute, shall have Pain *fort & dure*, but he forfeits no Land, nor is his Blood corrupted.

Trial. A Prisoner may be arraigned and tried at the same Time in Capital Crimes. *Lord Russell's Trial, 29.*

The Prisoner may ask Questions while the Evidence is giving against him, and make his Observations to himself, but he cannot argue upon them, till all the Evidence for the King is given. *Wakeman's Trial, 19.*

A Criminal can demand no Time to prepare for Trial. *Rouses Trial, 63.*

Trade

Trade and Navigation.

AFTER the 1st of December 1660, no Goods or 12 Car. 2. c. 18. Commodities whatsoever shall be imported into, No Goods or exported out of any Lands, Islands, Plantations, or from our Plantations belonging to his Majesty, or in his Possession, tations in *Asia, Africa, or America*, in any Ship or Vessel but *Asia, Africa, or* such as do truly and without Fraud belong to the People *America*, to of *England or Ireland, Wales, or Berwick*, or which are be exported or of the built of, and belonging to any of the said Lands, imported, but Islands, Plantations, or Territories, as the Proprietors in *English* and right Owners thereof, and whereof the Master and Bottoms.

Three Fourths of the Mariners at least are *English*, on Pain of Forfeiture of all the Goods and Commodities which shall be imported into, or exported out of any of the Places aforesaid, as also of the Ship or Vessel, with all its Guns, Furniture, Tackle, Ammunition and Apparel, one Third to the Crown, one Third to the Governour of such Land, Plantation, Island, or Territory where such Offence shall be committed, provided such Ship or Goods be seized there, or otherwise that third Part also to the Crown, and the remaining third Part to him that shall seize in Form, or sue for the same in any Court of Record. And all Admirals and Commanders of Men of War are authorized and required to seize such Ships and Vessels as shall offend contrary to this Act, and deliver them to the Court of Admiralty, to be proceeded against. And in Case of Condemnation, one Moiety of such Forfeiture shall go to such Admiral or Commanders, and their Companies, to be divided amongst them as other Prize Ships are, and the other Moiety shall go to the Crown. Stat. 12 Car. 2. c. 18.

And no Alien, or Person not born within the King's No Foreigners Allegiance, or naturalized or made a free Denizen, shall to be Factors after the 1st of February 1661, exercise the Trade or or Merchants, Occupation of a Merchant or Factor in any of in any *English* the same Places, on Pain of forfeiting his Goods and Factory or Chattels, one Third to the Crown, one Third to the Go- Plantation. vernour of the Plantation, and the other Third to him that will sue for the same in any of his Majesty's Courts in the Plantation where such Offence shall be committed. And all Governours of the said Plantations, &c. are required, before their Entrance upon their respective Governments, to take a solemn Oath to do their utmost that the aforesaid Clauses, and all Matters therein contained, shall be punctually observed. And such Governours as shall neglect their Duty therein, shall be displaced upon Complaint to his Majesty. 16. And

Governors
sworn not to
suffer it.

No Goods of the Product or Manufacture of Asia, Guernsey, Jersey, or Berwick, &c. to be imported but in English Bottoms.

And no Goods or Commodities whatsoever, of the Growth, Product, or Manufacture of *Asia, Africa, or America*, shall be imported into *England, Ireland, Wales, Guernsey, Jersey, or Berwick*, in any Ship or Vessel but such as truly belong only to the People of *England, Ireland, Wales, or Berwick*, or of the Lands, Islands, Plantations, or Territories in *Asia, Africa, or America*, belonging to this Crown, and whereof the Master, and three Fourths of the Mariners at least are *English*, on Pain of forfeiting such Goods, with the Ship or Vessel, &c. one Moiety thereof to the Crown, and the other to him that will sue for the same in any Court of Record. *lb.*

No Foreign Goods to be imported, but from the Country which produces them.

And no Goods or Commodities which are of Foreign Growth, Production, or Manufacture, and which are brought into *England, Ireland, Wales, Guernsey, Jersey, or Berwick*, in *English* built Shipping, or other Shipping belonging to the said Places, and navigated as aforesaid, shall be shipped or brought from any Places or Countries, but only from those of the said Growth, Production, or Manufacture, or from those Ports where the said Goods and Commodities can only, or are usually first shipped for Transportation, and from no other Places or Countries, on Pain of Forfeiture thereof, and also the Ship, Tackle, &c. one Moiety to the Crown, and the other to him that will sue for the same in any Court of Record. *lb.*

Dried Fish, Oil, or Whale-bone, not caught by the Person importing them, to pay double Duties.

And any Lyng, Stock-Fish, Pilchard, or other dried or salted Fish, usually caught by the People of *England, Ireland, Wales, or Berwick*, or any Sort of Cod-Fish or Herrings, or any Oil or Blubber made of any Kind of Fish whatsoever; or any Whale-fins or Whale-bones, which shall be imported into *England, Ireland, &c.* not having been caught in Vessels belonging thereto; and the said Fish cured, salted and dried, and the Oil and Blubber not made by the People thereof, and imported, shall pay double Alien Custom. *lb.*

No Foreign Vessel to carry Goods from one Port in England to another.

And it shall not be lawful for any Person to cause to be laden and carried in any Ship or Vessel, whereof any Stranger shall be Owner, part Owner, or Master, and whereof three Fourths of the Mariners at least be not *English*, any Fish, Victuals, Wares, Goods, Commodities, or Things whatsoever, from one Port or Creek of *England, Ireland, Wales, Islands of Guernsey or Jersey, or Town of Berwick*, to any other Port or Creek of the same, on Pain of forfeiting both Goods and Vessel, Tackle, &c. one Moiety to the Crown, and the other to him that will sue for the same in any Court of Record. *lb.*

And where any Abatement or Privilege is given in The Crew to the Book of Rates, to Goods imported or exported in be three *English* built Shipping, that is to say, Shipping built in Fourths *England, Ireland, Wales, Guernsey, Jersey, Berwick*, or *glisch* during the *English* Plantations; that is always to be understood, the Voyage, where the Master and three Fourths of the Mariners at least be *English*, and that they should remain so during the whole Voyage, unless in Case of Sicknefs, Death, or being taken Prisoners, to be proved by the Oath of the Master or chief Officer of such Ship. *1b.*

And no Goods or Commodities of the Growth, Pro- Goods not to duction, or Manufacture of the Dominions of the Czar be imported of *Muscovy*; and no sort of Mafts, Timber or Boards, Fo- from *Muscov-* reign Salt, Pitch, Tar, Rosin, Hemp or Flax, Raisins, *ry, &c.* but in Figs, Prunes, Olive-Oils, or any Sort of Corn, Grain, *English* Bot- Sugar, Pot-Ashes, Vinegar, or Spirits, called *Aqua Vitæ*, toms, or Brandy, shall be imported into *England, Ireland, Wales* or *Berwick*, in any Ship or Vessel but such as belongs to the People thereof, and whereof the Master and three Fourths of the Mariners are *English*. And no Currants, or Commodities of the Growth, Produce, or Manufacture of the *Turkish* Empire, shall be imported into any of the Or from *Tur-* Places aforesaid, in any Ship or Vessel which is not *En- key.* *glisch* built, and navigated as aforesaid, except such Ships or Vessels as are of the built of that Country or Place of which the said Goods are the Growth, Produce, or Manu- Except in facture, or of such Port where the said Goods are usually Ships of the first shipped for Transportation, and whereof the Ma- Country ster, and three Fourths of the Mariners are of the said where they Country or Place, on Pain of Forfeiture of the Ship and grow. Goods, to be recovered as in the Clause foregoing. *1b.*

Provided, that for the preventing of Frauds daily Wines of *France* used in concealing of Aliens Goods, all Wines of the or *Germany*, Growth of *France* or *Germany*, which shall be imported Naval Stores, into any of the Ports or Places aforesaid, in any Ships or Fruit, *&c.* Vessels that are not *English* built, and navigated as afore- Wines of *Spain* said, shall be deemed Aliens Goods, and pay all Duties to and *Portugal*, his Majesty accordingly, as also to the Town or Port to Goods from which they shall be imported: And all Mafts, Timber, *Muscovy* and or Boards, as also all Foreign Salt, Pitch, Tar, Rosin, *Turkey*, not Hemp, Flax, Raisins, Figs, Prunes, Olive-Oils, Corn, imported in Grain, Sugar, Pot-Ashes, Spirits, Brandy, or *Aqua Vitæ*, *English* Bot- Wines of the Growth of *Spain*, the *Canaries*, or *Portugal*, toms, to pay *Madera*, or the *Western-Islands*, and all Goods of the as Aliens Growth, Produce, or Manufacture of *Muscovy* or *Russia*, Goods. which shall be imported into any of the aforesaid Places, in any other than such Shipping, and so navigated. And all Currants and *Turkey* Commodities, which shall be im-ported

ported into any the Places aforesaid, in any other Ship-
ping, or otherwise navigated, shall be deemed Aliens
Goods, and pay accordingly. *Ib.*

Oath to be
made of the
Purchase of a
Foreign built
Ship.

And for preventing of Frauds, in buying of foreign
Ships, it is enacted, That no foreign built Ship or Ves-
sel shall be deemed as a Ship of *England, Ireland, Wales,*
or *Berwick*, until the Person or Persons claiming the
Ship to be theirs, shall make it appear to the chief Offi-
cers of the Customs in the Port next to the Place of his
Abode, that he or they are not Aliens, and shall have
taken an Oath before such Officer, that such Ship or
Vessel was *bona fide*, and without Fraud, bought by him
or them for a valuable Consideration, expressing the
Sum, Time, Place, and Persons from whom it was
bought, and who are part Owners, all which part Own-
ers shall be liable to the said Oath as aforesaid; and that
no Foreigner hath directly, or indirectly, any Part,
Share, or Interest therein; and upon such Oath, he or
they shall receive a Certificate under the Hand and Seal
of such Officer, whereby such Ship or Vessel shall, for
the future, pass and be deemed as a Ship belonging to
the said Port, and the Officer shall keep a Register of such
Certificates, and return a Duplicate thereof to the chief
Officers of the Customs at *London*, for such as shall be
granted in *England* and *Wales*, and to the chief Officers
of the Customs at *Dublin*, for such as shall be given in
Ireland, with the Names of the Persons of whom such
Ship was bought, the Sum which was paid for her, and
the Names of the part Owners. *Ib.*

And a Certi-
ficate thereof
before it is
deemed an
English Ship.

And if any Officer of the Customs shall allow the Pri-
vilege of an *English* built Ship to any foreign built Ship
or Vessel, until such Certificate produced, or such Proof
and Oath taken before them, or shall allow the Privilege
of an *English* Ship, or other Ship belonging to the afore-
said Places, to any *English* and foreign built Ship com-
ing into any Port, and making Entry of Goods, until
Examination whether the Master and three Fourths of the
Mariners be *English*, or shall allow to any foreign built
Ship bringing Commodities of the Growth of the Coun-
try where it was built, the Privilege given to such Ship
by this Act, until Proof that it is a Ship of that Coun-
try, and the Master and three Fourths of the Mariners
of the same Country: Or if any Person who shall be
made Governor of any Islands, Plantations, &c. by his
Majesty, shall suffer any Foreign built Ship or Vessel to
load or unload any Goods within the Precincts of their
Governments, until such Certificates be produced, and

So of a Coun-
try Ship.

Examination

Examination made as aforesaid, such Officer of the Customs and Governor respectively shall be displaced. *Ib.*

Provided, that this Act do not extend to prohibit the Goods from Importation of any Commodities of the *Streights or Le- the Levant* Seas, loaden in *English* Shipping, where the Master may be ship- and three Fourths of the Mariners are *English*, from the port at the usual Ports or Places of loading them, though the same usual Places, be not of the very Growth of such Places. *Ib.*

Provided also, that this Act shall not restrain the im- And from the porting *East-India* Goods loaden in *English* Ships, and na- *East Indies*, vigated as aforesaid from the usual Places of lading them, to the Southward and Eastward of the *Cape of Good Hope*. *Ib.*

Provided that it be lawful for the People of *England*, Proviso for *Ireland, Wales, Guernsey, Jersey, or Berwick*, in Vessels importing belonging to them, and navigated as aforesaid, to bring Goods from from the Ports of *Spain or Portugal, the Azores, Madera, Spain and For- or Canary Islands*, all Goods of the Growth, Produce, or *tugal*. Manufacture of those Countries. *Ib.*

Provided that this Act do not extend to Bullion, or to And for Bul- Goods taken by Way of Reprizal by any *English* Ship na- lion and Pri- vigated as aforesaid, and having a Commission from his zes. Majesty. *Ib.*

Provided that this Act shall not extend to lay Aliens *Scotland*. Duties upon any Corn or Salt of the Growth of *Scotland*, or to any Fish caught, saved and cured there, and im- ported directly from thence in *Scotch* built Ships, whereof the Master, and three Fourths of the Mariners, are his Majesty's Subjects: Nor to any Seal-Oil of *Russia*, im- Seal-Oil. ported from thence into *England, Ireland, Wales, or Ber- wick*, in Shipping belonging *bona fide* to some of the said Places, and whereof the Master, and three Fourths of the Mariners are *English*. *Ib.*

Provided that every Ship or Vessel belonging to *France*, Duties paid that shall come into any Port or Place in *England, Ire- by French* land, or *Wales*, and load or unload any Goods, or Lring or Ships. take in any Passengers, shall pay to the Collector of the Customs in such Port or Place, 5 s. for every Ton the said Ship or Vessel is of Burden which Duty shall con- tinue as long as a certain Duty of Fifty Sols *per Tun* im- posed by the *French* King, shall continue to be collected on *English* Shipping in *France*. *Ib.*

No Suggars, Tobacco, Cotton, Wooll, Indigo's, Gin-Suggars, To- ger, Fustick, or other Dying Wood, of the Growth, bacco, &c. in Produce, or Manufacture of the *English* Plantations in A- the Plan- ta- *in, Africa or America*, shall be shipped or transported to tions, nor to any Place or Port, except from one of the said *English* be exported to Plantations to another, or to *England, Ireland, Wales, or foreign Coun- Berwick, tries*.

Berwick, on Pain of Forfeiture of the said Goods, with the Guns, Tackle, &c. one Moiety to the Crown, and the other to him that shall seize or sue for the same in any Court of Record. *Ib.*

Bond given by Ships going out, not to export the said Goods to Foreign Countries.

And for every Ship or Vessel which shall sail from *England, Ireland, Wales, or Berwick*, for any *English* Plantation in *Asia, Africa, or America*, sufficient Bond shall be given, with one Surety, to the chief Officer of the Port from whence such Ship shall set sail, to the Value of 1000 *l.* if it be a Ship under 100 Tons, and 2000 *l.* if the Ship be of greater Burden: That if the said Ship or Vessel shall load any of the said Commodities at any *English* Plantation, the same shall be brought to some Port of *England, Ireland, or Wales*, the Danger of the Seas excepted: And for all Ships coming from any other Port to any of the said *English* Plantations which by this Act are permitted to Trade there, the Governor of such Plantation shall, before she unloads, take Bond in such Sums as aforesaid, that such Ships shall carry all the aforesaid Goods that shall be laden on Board her, to some other *English* Plantation, or to *England, Ireland, or Wales*: And that every Ship which shall take the aforesaid Goods on Board before such Bond given to the said Governor, or Certificate produced from the Officers of the Customs in *England*, that such Bonds have been duly given, shall be forfeited, with all her Guns, Tackle, &c. to be employed and recovered as aforesaid: And the said Governor shall twice every Year return Copies of all such Bonds by them taken, to the chief Officers of the Customs in *London*. The said last mentioned Act by the Convention Parliament is hereby ratified and confirmed. *Stat 13 Car. 2. c. 14.*

13 Car. 2.
c. 14.

13 & 14 Car.
2. c. 11.
Entries to be made at the Custom-House on the Arrival of any Ships.

No Ship or Vessel arriving from beyond Sea, shall be more than three Days coming from *Gravesend* to the Place of her Discharge in the River *Thames*, without staying at any Wharf, Key, or Place adjoining to the Shore, between *Gravesend* and *Chester's Key*, unless hindered by contrary Winds, or other Accidents; and then, or before, the Master or Purser shall make a true Entry upon Oath, of the Burden, Contents, and Lading of every such Ship or Vessel, with the particular Marks, Numbers, Qualities, and Contents of every Parcel of Goods therein, also in what Ports she took in her Lading, of what Country built, how manned, who is Master, and who are the Owners. And in all Out-Ports, such Ship shall come directly up to the Place of unlading, and make Entries as aforesaid, on Pain of 100 *l.* *Stat 13 & 14 Car. 2. c. 11.*

No Captain, Master, Purser, or other Person, taking Entries out-charge of any Ship or Vessel bound for beyond Sea, wards, whether such Vessel shall have a Commission from the King, or from any foreign Prince or State, shall take in, or suffer to be taken into such Ship or Vessel, any *English* Goods to be exported beyond Sea, until such Captain, &c. shall have entred such Ship in the Book of the Commissioners, Customer, or Collector and Controller outwards of the Port where he shall take in Goods, with the Name of such Captain or Master, the Burden of such Ship or Vessel, the Number of Guns and Ammunition she carries, and to what Place bound, and shall bring to the Custom-House a Content in Writing, under his Hand, of the Names of every Merchant, and other Person who shall have laden Goods on Board, with the Marks and Numbers of such Goods, and shall publickly in the Custom-House, upon his Oath, to the best of his Knowledge, shall have answered such Questions as shall be demanded of him concerning the Goods on Board his Ship, on Pain of 100*l*. And no Captain, Master, or other Person, taking Charge of any Ship of War, wherein any Goods Men of War, shall have been laden and brought from beyond Sea, shall unload the same, before he shall signify in Writing to the Customer, Collector, or Comptroller inwards, of the Port, the Names of every Merchant or Loader of any Goods or Merchandise, together with the Number, Marks, Quantity and Quality thereof, and shall have answered upon his Oath, such Questions concerning them as shall be publickly administred in the Custom-House, and shall be liable to all Searches, and other Rules which Merchant Ships are subject to, Victualling Bills and Entries excepted, on Pain of 100*l*. and upon Refusal to make such Entries, outwards or inwards, the Custom-House Officers may enter and go on Board such Ship of War, and seize all such Goods as are prohibited or uncustomed, which shall be found on Board. 16.

And the Custom-House Officers, and their Deputies, Custom-House are hereby authorized to go on Board any Ship or Officers in- Vessel, as well Men of War as Merchant Ships, and powered to bring on Shoar all Goods prohibited or uncustomed, ex- search Vessels, cept Jewels of outward Bound Ships; and if such Ships and seize pro- be inward Bound, to bring ashoar all small Parcels of hibited and fine Goods, or other Goods, which shall be found in uncustomed Cabbins, Chests, Trunks, or other small Package, or Goods. in any private Place in or out of the Hold of the Ship, which may occasion a just Suspicion that they were intended to be fraudulently conveyed away: And

all other Goods for which the Duties were not paid or compounded for within twenty Days after the first Entry of the Ship, to remain in his Majesty's Store-House, until the Duties are satisfied, unless the Officer see Cause to allow a longer Time: And the Officers of the Customs, and their Deputies, are empowered to remain on Board, until all the Goods are delivered out of the said Ships. And if any Master, Purser, or other Person taking Charge of any Ship, shall suffer any Bale, Pack, or Cask, or other Package to be opened, and the Goods to be imbezilled, carried away, or put into any other Form of Package, after the Ship comes into Port, he shall forfeit 100 l.

And if after the Clearing of any Ship or Vessel by the Custom-House Officers, and discharging the Watchmen or Tidesmen from Attendance thereupon, there shall be found on Board any Goods which shall be concealed from the said Officers, and for which the Duties of Importation have not been paid, then the Master, or other Person taking Charge of such Ship, shall forfeit 100 l. and any Person being authorized by Writ of Assistance under the Seal of the Court of Exchequer, may take a Constable, or other publick Officer inhabiting near the Place, and in the Day-time enter any House, Shop, Warehouse, or other Place, and in case of Resistance, break open Doors, Chests, Trunks, and other Packages, and seize any Goods whatever, prohibited and uncustomed, and secure them in his Majesty's Storehouse in the next Port. *Ib.*

An Account is required to be given by this Act, of all foreign Ships then in the Ports of *England*.

Subjects of
Ireland, or
the Planta-
tions, deem-
ed *English*.

And it was declared, That in such Cases where it was required by 13 Car. 2. cap. 14. that the Master, and three Fourths of the Mariners should be *English*; it was to be understood, that any of his Majesty's Subjects of *England*, *Ireland*, and his Plantations, are to be accounted *English*, and no others, and that the Number of Mariners be accounted according to what they should have been during the whole Voyage. *Ib.*

Pain of re-
sisting a Cu-
stom-House
Officer.

And where an Officer shall by any Person armed with a Club, or other Weapon, be forceably hindred, affronted, abused, beaten, or wounded, either on Board any Ship or Vessel, or upon Land or Water, in the Execution of his Office, such Person, so resisting, &c. and all others acting in their Assistance, shall by the next Justice of Peace, or other Magistrate, be committed to Prison till the next Quarter-Sessions, where the Justices of Peace are empowered to punish the Offender by Fine, not exceeding

100 l. and to remain in Prison till discharged by Order of the Exchequer, both of Fine and Imprisonment, or Discovery of the Person that set him on Work, so that he may be legally proceeded against. *lb.*

And if any Wharfinger, or Keeper of a Wharf, Crane, Forfeiture of or Key, or their Servants, shall suffer to be taken up or suffering unlanded, or shall ship off, or suffer to be Water-born from customs any the said Wharfs, &c. any prohibited Goods, or Goods to be whereof the Duties are unpaid, without the Presence of shipped, &c. the Officers of the Customs, or at Hours not appointed by Law (except in the Port of Hull) or Goods passing by Certificate, Wasse, Cocket, or otherwise, without Notice given to the proper Officers, every such Wharfinger, &c. shall forfeit 100 l. And if any Goods shall be laden off the Shoar, into any Bark, Hoy, Lighter, Barge, or Boat, to be carried on Board any Ship outward bound, or taken in from any Ship or Vessel arriving from foreign Parts, without Warrant, and Presence of an Officer of the Customs, such Bark, Lighter, &c. shall be forfeited, and the Master, Purser, or other Mariner of any Ship inward bound, knowing and consenting thereunto, shall forfeit the Value of the Goods so unshipped. *lb.*

And if any Carman, Porter, Waterman, or other Penalty of Person, shall assist in the taking up, landing, shipping assisting in off, or carrying away any such Goods, such Offender be running of ing apprehended by Warrant of any Justice of Peace of Goods. the County or Place, such Justice may examine Witnesses upon Oath concerning the Fact, which being proved by two Witnesses, the Offender shall be committed to the next Jayl, there to remain till he find such Sureties for his good Behaviour, and for so long Time, until he be discharged by the Lord Treasurer, Chancellor, under Treasurer, or Barons of the Exchequer; and if he shall offend a second Time, he shall be committed by any Justice of Peace, to the next Jayl for two Months, or until he shall pay unto the Sheriff of the County 5 l. for the use of his Majesty, or until he shall be discharged by the Lord Treasurer, &c. or the Court of Exchequer. *lb.*

And if any Goods shall be shipped or put on Board, to No Goods to be carried to the open Sea, from any Port or Place in be Water-England or Wales, to be landed at any other Place in this born from Realm, without a Sufferance or Warrant first obtained Port to Port, from the proper Officer of the Port or Place, the same without a shall be forfeited. And the Master of every Vessel who Warrant, shall take in any such Goods to be landed in some other Port or Place in this Kingdom, shall before the Vessel goes out of Port, take out a Cocket, and become bound to the King, with good Security, in the Value of

Certificate to
be made of
their landing,

the Goods aforesaid, for the Delivery thereof in the Port or Place for which the same shall be entred, or in some other Place within the Kingdom, and Danger of the Seas excepted, to return a Certificate within six Months after the Date of such Cocket, under the Hands and Seals of the proper Officers of the Customs, in the Port or Place where the same shall be landed, to the Officers of the Customs, to whom such Security was given, on Pain of Forfeiture of the Bond and Security aforesaid. *Ib.*

Penalty of
making a
false Certifi-
cate, or coun-
terfeiting a Cu-
stom-House
Warrant.

And if any Officer of any Port, &c. shall make a false Certificate of Goods which should have been landed out of any Vessel, he shall lose his Employment, and forfeit 50 *l.* and suffer one Year's Imprisonment without Bail or Mainprize, and be incapable of serving his Majesty in the Customs, and be liable to such corporal Punishment as the Court of Exchequer shall think fit: And if any Person shall counterfeit, raise, or falsify, any Cockets, Certificate, or return, transmit, let pass, or any other Custom-House Warrant, he shall forfeit 100 *l.* and the Cocket, &c. shall be void. And if any Goods coming into any Port in this Kingdom, from any other Port or Place therein, or the Dominions aforesaid, by Port Cocket, Transit, Let, Pass, or Certificate, shall be landed or put on Shoar before such Cocket, &c. shall be delivered to the proper Officer of the Customs of the Port or Place of their Arrival, and Warrant of Sufferance made from such Officer for the landing thereof. *Ib.*

Penalty of
running
Goods out-
wards.

And if any Goods for which the Duties are due, shall be secretly convey'd on Board any Vessel, before the same be duly answered and paid, and shall escape the Discovery by the Officers of the Customs, and be carried beyond Sea, then the Owners of such Goods, and other Persons, who shall have shipped, or caused the same to be shipped and transported, shall forfeit double the Value of the Goods, according to the Book of Rates, except for Coal, which shall pay double the Custom and Duty. *Ib.*

Bills of En-
try to be
signed by the
Merchant.

And for preventing Frauds in concealing Strangers Goods, and otherways, every Merchant and other Person passing any Goods inwards or outwards, shall by himself, or his known Servant, Factor, or Agent, subscribe one of his Bills of every Entry, with the Mark, Number, and Contents of every Parcel of such Goods as are rated to pay by the Piece or Measure, and Weight of the whole Parcels, without which the Officers of the Customs shall not suffer any Entry to pass; and no Children or Alien, under the Age of one and twenty Years, shall

shall be permitted Traders, or any Goods be entred in their Names.

And upon any Action or Suit concerning the said Du- No Party ties or Goods forfeited for unlawful Importation or Expor- Jury. tation, there shall not be any Party Jury, but only his Majesty's natural born Subjects. *1b.*

And whereas Allowances are made to Merchants and Allowances others, for Defects and Damages in Goods, and five *per* for damaged Cent. generally upon Goods imported, and twelve *per* Goods, how Cent. upon Wines. Every Person having such Allowance made, inwards, shall, by himself, or his known Servant or Factor, receive the Monies due upon Debentures for such foreign Goods exported by such Certificate, with such Allowances as were made him upon the Importation; and if he shall fraudulently ship out less in Quantity or Frauds in Value than is expressed in his Certificate, the Goods there- shipping in mentioned, or the Value, shall be forfeited, and the Goods, Owner, shall lose the Benefit of receiving back any Part of the Subsidy for them; and if any Goods so shipped by Certificate, shall be relanded in any Port or Place in this Or relanding Kingdom, unless to save them from perishing, which them, shall be immediately signified to the proper Officer of the Port, no Allowance shall be made for those Goods, and the same, or the Value thereof, shall be forfeited. *1b.*

And wheras by an Act made in the 1st Year of Queen Ports for land- Elizabeth, *cap. 11.* It was enacted, That no Goods should ing Goods ap- be shipped or loaden, or landed, or discharged, but in pointed by the Crown, such open Place, Key or Wharf, except the Port of Hull, as the Queen should appoint by a Commission. And where- as since that Time, several Places appointed in Pursuance thereof, are become incommodious, and others much more convenient, it is enacted, That the King, by his Com- mission out of the Court of Exchequer, may appoint such further Places, except the Town of Hull, for the landing, discharging, or shipping of Goods or Merchan- dise, and to what antient Ports such Places shall belong, where the Customer, &c. shall reside, and by the said Commission may set down and appoint the Extent, Bounds and Limits of every Port. And it shall not be And unlaw- lawful for any Person to lade or put off from any Key, ful to Ship Wharf, or other Place, into any Ship, Boat, or Vessel, Goods, or any Goods whatsoever, Fish taken by his Majesty's Sub- bring them jects, Sea-Coals, Stone and Bestials excepted, to be trans- on Shoar at ported beyond Sea; or to take up, discharge, or lay on any other Land, out of any Boat, Lighter, Ship, Vessel, or Bottom Places, not leaky or wrecked, any Goods, Fish taken by the King's Subjects, Bestials and Salt excepted, brought from beyond

beyond Sea by Way of Merchandise, but only upon such open Place as shall from Time to Time be appointed by Virtue of such Commission as aforesaid, without special Leave from the Commissioners and Officers of the Customs, upon Pain of Forfeiture of such Goods and Merchandises.

None but Custom-House Officers to seize uncustomed Goods.

And no Ship, Goods, or Merchandise, shall be seized as forfeited, for any unlawful Importation or Exportation, or for Nonpayment of Duties, but by the Custom-House Officers, or their Deputies, or such other Persons as shall be authorized thereto by Warrant from the Lord Treasurer or under Treasurer, or by special Commission from his Majesty under his Great or Privy-Seal, and every other Seizure shall be void. *Ib.*

Persons sued for putting the Navigation Act in Execution, may plead the General Issue, &c.

And all Actions, Suits, and Prosecutions, whereby any Officer of the Customs, or any Officer or Person authorized by his Majesty to put in Execution the said Act for encreasing and encouraging Navigation, or any others acting in Aid of them, shall be sued or prosecuted; such Persons, their Heirs, Executors, and Administrators may plead the General Issue, and give this and the aforesaid Acts in Evidence; and the Judges are required to admit the same, ad to acquit and indemnify them from all such Suits and Prosecutions, for any Matter done in the necessary Performance of their respective Trusts and Employments. *Ib.*

Remedy against Compositions with Officers.

And if any Seizer, Informer, or Officer, shall not prosecute with Effect the Condemnation of any Ship or Goods seized or informed against by them, it shall be lawful for any other Officer of the Customs, or any other Person thereto authorized by the Lord Treasurer or under Treasurer, to make Seizure of, or inform against such Goods, or bring his Action by way of *devenerunt*, and he shall be deemed in Law as the true first Informer and Seizer, and have the Benefit of such Information and Seizure; and no Informer or Officer, shall be suffered to compound under one Third of the appraised Value, upon Pain of losing his Office. *Ib.*

Penalty of Bribery in a Custom-house Officer, and of the offering a Bribe.

And if any Officer of the Customs, Searchers, Waiters, or other Persons deputed by them, or any other Authority, and employed in the Customs and Subsidies, shall directly or indirectly receive any Bribe, Recompence or Reward, in any Kind whatsoever, or connive at any false Entry of Goods, whereby the King shall be defrauded, or Goods prohibited to be imported or exported, shall be suffered to pass, the Offender shall forfeit 100 *l.* and be incapable of any Office under his Majesty, his Heirs or Successors, or any Authority derived from them.

And

And the Merchant, Mariner, or other Person, giving or paying any such Bribe, Reward, or Recompence, shall forfeit 50 *l.* *Ib.*

Provided, that if any Offender shall within two Months after, discover his Offence, he shall be acquitted. *Ib.*

And all foreign Goods and Merchandise, which by Foreign Goods the Officers of the Customs shall be permitted to be landed to be landed and taken up by Bills at Sight, Bills at View, or Suffe- at the most rance, shall be landed at the most convenient Keys, convenient where the Customer, Collector, or Comptroller shall ap- Keys, and point, and not elsewhere; and there, or in his Majesty's weighed, &c. Storehouse, at the Election of such Officers, shall be measured, weighed and number'd, in the Presence of the Officers thereto particularly appointed, who shall perfect the Entry, and thereunto subscribe their Names, and the next Day give an Account of every Entry so perfected, to the Customer, Collector, or Comptroller aforesaid, on Pain of 100 *l.* *Ib.*

And no Ship or Vessel appointed to carry Letters and Packet-Boat Packets, shall unless in such Cases as shall be allowed by the to carry no Customer, &c. import or export any Goods, on Pain of Goods. 100 *l.* to be forfeited by the Master of the Vessel, with the Loss of his Place, and all Goods found on Board such Vessel. *Ib.*

And it is hereby declared, in Explanation of the said No Wines, Act of Navigation, That no Sort of Wines, other than Spices, Gro-Rhenish, no Sort of Spicery, Grocery, Tobacco, Pot-cery, and Ashes, Pitch, Tar, Salt, Rosin, Deal-Boards, Fir, Tim-Tobacco, Na-ber, or Olive-Oil, shall be imported into this Kingdom val Stores, &c. from the *Netherlands* or *Germany*, in any Ships or Vessels to be import-whatever, on Pain of forfeiting the said Goods, Ship, ed in foreign and Furniture. *Ib.* Bottoms, from

And any *French* Ship or Vessel, upon which the Im-the *Nether-*position of five Shillings per Ton is payable by the said lands, &c. Act of Navigation, which shall either put on Shoar, or French Vessels. put over into any Boat, any Goods or Passengers, without Payment of the Duties, shall not only pay the Duties formerly due, but forfeit 10 *l.* And whatever Pilot or Waterman shall go from any Harbour, Port, or Creek, and bring Goods from on Board such Vessel, shall not only pay the Duty such Vessel should have paid, but for- Statutes against im- feit 40 *l.* *Ib.* porting Log-

The Statutes of 23 *Eliz. cap. 9.* and 39 *Eliz. cap. 11.* prohibiting the Importation, and the Use of Logwood wood, repeal- in Dying, is hereby repealed. *Ib.* ed.

And all Actions, Suits and Informations on the above-Suits to be in said Act of Navigation, may be prosecuted in the Court the Exchequer, of

Proof to lie
on the Own-
er.

Commissions
to examine
Witnesses.

Writs of De-
livery for
perishable
Goods.

Forfeitures
divided.

Officers to as-
sist in Execu-
tion of this
Act.

Oath to be
taken by Cu-
stom-House
Officers.

Penalty of
Extortions,
&c. in Offi-
cers.

Ships under
200 Ton, to
pay an En-
crease of Du-
ties,

of Exchequer; and all Suits brought upon the Acts of Tonnage and Poundage, and the said Act, or any other Statute concerning Importation, if the Property of the Goods be claimed by any Person as the Importer, the *Onus probandi* shall lie upon such Owner or Claimer thereof. *Ib.*

Provided, that if the Seizure or Information shall be made on any Clause contained in the said Act of Navigation, the Defendant may, at his Request, have a Commission out of Chancery to examine Witnesses beyond Sea, and a competent Time allowed him for the Return thereof; and the Examination of the Witnesses, so returned, shall be Evidence at the Trial, as if given *viva Voce* in Court. *Ib.*

No Writ of Delivery shall be granted by the Court of Exchequer, for Goods seized, but upon good Security, and only for perishable Goods, or where the Informer shall delay coming to Trial, contrary to the Directions of the Court. *Ib.*

And all Forfeitures aforesaid, shall be divided between the King and the Prosecutor. *Ib.*

And all Officers Civil and Military, and all other his Majesty's Subjects, shall be aiding and assisting to the Officers of the Customs, in the due Execution of this Act, and be indemnified by Virtue thereof. *Ib.*

All Deputies, Clerks, and Servants, who shall be employed in the Customs, shall first take their Oaths for the faithful Discharge of their several Trusts and Employments: And the Commissioners and principal Officers in the Port of London, and the principal Officers of the Out Ports, or any two of them, are impowered to administer the said Oaths, and to cause the same to be entered in the Custom-House of the Port where the Person taking the said Oath shall reside. *Ib.*

Provided, that if any Person employ'd in the Customs, shall demand or take any other or greater Sum than by Law shall be due, or shall put any Merchant or other Person out of his Turn, without express Order before, or immediate Approbation after, from the Managers or superior Officers of the Customs, or shall illegally detain the Goods of any Person, or neglect or refuse to make Repayments and Allowances, or shall not after Notice given, give out and execute his Warrant, he shall be liable to double Costs and Damages. *Ib.*

And for the increase of good and serviceable Shipping, and Security of Trade and Commerce, it is enacted, That every Person who shall export any Goods or Merchandise from any Port capable of a Ship of 200 Tons,

to any Place of the *Mediterranean*, beyond *Malaga*; or import any Merchandises from such Places, in any Ship that hath not two Decks, and carries less than sixteen Guns mounted, with two Men to each Gun, and Ammunition proportionable, shall pay for all Goods exported or imported, 1 per Cent. above the Duties of Tonage and Poundage otherways payable. *1b.*

Provided that it shall be lawful to export Fish into Exempt Ex- any of the Ports of the *Mediterranean*, in any *English* ports of Fish. Vessel whatever, so that one half of her Lading be only Fish; and in such Case, to import any Goods in the same Ship, without paying any other Duties than heretofore. *1b.*

And for encouraging the building of stout Ships, it is Encouraged, That if any Person shall within seven Years build ment for any Ship of three Decks, or two Decks and a half, with a building large Forecastle, and five Foot between each Deck, mounted with Ships. thirty Guns, he shall for the two first Voyages have one tenth Part of the Customs. *1b.*

No Goods of the Growth, Produce, or Manufacture of 15 Car. 2. c. 7. Europe, shall be imported into any Plantation, Colony, No Goods to or Place belonging to the Crown of *England*, in *Asia*, be imported *Africa* or *America*, but what shall be shipped in *Eng-* into the *Plan-* land, *Wales* or *Berwick*, in *English* Bottoms, and navigations but ted by *English* Mariners, according to 14 Car. 2 cap. 11. from *England* directly to the said Plantations, on Pain of Forfeiture of all Goods and Merchandises, otherwise imported thither by Land or Water; and if by Water, of the Vessel and Furniture also: One Third to the Crown, another Third to the Governor of the Plantation whither, &c. and the other Third to the Seizer, or Informer, to be recovered in the Plantation Courts, or any Court of Record in *England*. Stat. 15. Car. 2. cap. 7.

Provided that it shall be lawful to ship in *English* Vef- Except Salt fels, navigated as aforesaid, in any Part of *Europe*, Salt and Wine for the Fisheries of *New-England*, and *Newfoundland*, and from the Ma- to ship Wines at the *Maderas*, and *Azores*, of the Growth deras and of those Islands, and to ship Horses in *Scotland*, and *Ire-* *Azores*. land, and all Sorts of Victual, of the Growth and Pro- And Horses duce of those Kingdoms, and transport the same to the and Victuals said Plantations. from *Scotland*

And every Person importing by Land any Goods in- and *Ireland*. to the said Plantations, shall deliver to the Governor of the Plantation, &c. or his Substitute, within twenty four Hours after such Importation, his Name, with a particular of such Goods. And no Ship shall unload in the said Plantations, until the Master shall have first notified his Arrival to the Governor, &c. with his Christian

stian and Sirname, and an Invoice or Particular of her Lading, and shewn that the Ship is *English* built, and navigated as aforesaid, and where he shipped the Goods, on Pain of Forfeiture of the Ship and Furniture, and of all such Goods as were not taken on Board in *England, Wales* or *Berwick*, to be recovered and divided as aforesaid. And every Governor of the Plantations, when he enters on his Command, shall take an Oath, to cause this Act in relation to Trade to be put in Execution. And if any such Governor shall afterwards offend against this Act, he shall be displaced, and made incapable of any Command in the Plantations, and forfeit one thousand Pounds, to be divided between the Crown and the Informer, in the Plantation Courts, or any Court of Record in *England*.

Goods from the Plantations to be imported only into *England*.

And if any Officer of the Customs shall give a Warrant for, or suffer any Sugar, Tobacco, Ginger, Cotton, Wooll, Indico, Speckle-Wood, or *Jamaica*-Wood, Fustick, or other Dying-Wood, of the Growth of the Plantations, to be carried into any other Country, until they have been first put on Shore in *England*; he shall forfeit his Place, and the Value of such Goods, to be divided between the Crown and the Informer, and recovered in any Court of Record in *England*.

Coals may be exported.

And it shall be lawful to export Coals out of *England* to the Plantations, paying one Shilling and eight Pence per Chaldron only for *Newcastle* Measure, and one Shilling for *London* Measure, provided it be in *English* Bottoms, navigated as above, and Security given for landing them in the Plantations.

Foreign Coin or Bullion may be exported.

And it shall be lawful to export from any Port of *England*, or *Wales*, all Sorts of foreign Coin, or Bullion of Gold or Silver, making Entry thereof in the Custom-House of the Port, without paying any Duty or Fee for the same.

No fresh Fish to be imported by Foreigners.

No fresh Herring, fresh Cod, or Haddock, Coal-Fish, or Gull-Fish, shall be imported into *England*, or *Wales*, but in *English* Bottoms, navigated as aforesaid, and which have been caught and taken in Vessels so navigated, and not bought of Foreigners, on Pain of Forfeiture of the Fish otherwise imported, as well as the Vessel, to be divided between the Crown and the Informer.

Duties laid on dried Fish imported by Foreigners.

And for the following dried Fish imported in foreign Vessels, not navigated as aforesaid, there shall be paid the Duties following, viz. for Cod-Fish five Shillings the Barrel, and for the Last, containing twelve Barrels, three Pounds, for Cod-Fish the Hundred, containing six Score, ten Shillings; for Coal-Fish the Hundred, containing

rainin

containing six Score, five Shillings; for Ling the Hundred, containing six Score, one Pound, for white Herrings the Last, containing twelve Barrels, one Pound sixteen Shillings; for Haddock the Barrel, two Shillings; for Gull-Fish the Barrel, two Shillings.

A Forfeiture is given by this Act, of ten Pounds for Pain of plant- every Pole of Tobacco any Man shall plant in *England*, ting Tobacco provided that it do not extend to Physick Gardens in the in *England*. University, or elsewhere.

Goods are permitted to be imported to *Ireland*, from 22 & 23. Car. the Plantations, and Bonds taken accordingly. 2. c. 26.

Every Ship coming to the *English* Plantations to ship 25 Car. 2. c. 7. Sugar, Tobacco, Cotton, Wooll, Indico, Ginger, Fustick, or other dying Wook, the Produce of those Plantations, Bond not being first given, with one Surety to transport the same to *England*, *Wales* or *Berwick* directly, shall pay the following Duties, viz. for white Sugar, five Shillings the Hundred Weight, and for brown Sugar, and Muscovado, one Shilling and six Pence; for Tobacco a Penny a Pound, and for Cotton-Wooll a Halfpenny; for Indico Twopence; for Ginger the Hundred Weight, one Shilling; for Logwood the Hundred Weight, five Pounds; for Fustick and all other dying Wood, Sixpence, and for every Pound of Cocoa-Nuts, a Penny.

Whereas notwithstanding an Act of 12 Car. 2. for en- 7 & 8 W. 3. c. creasing of Shipping and Navigation, and the 15 Car. 2. 22. for the Encouragement of Trade, and 22 and 23 Car. 2. to prevent the planting Tobacco in *England*, and for regulating the Plantation Trade, and the 25 Car. 2. for the Encouragement of the *Greenland* and *Eastland* Trades, and for the better securing the Plantation Trades, great Abuses are committed, to the Prejudice of the *English* Navigation, and Loss of Part of the Plantation Trade.

It is hereby enacted, That after the 25 March 1698, The former no Goods nor Merchandise shall be imported into, or ex- Acts of Navi- ported out of any Colony, or Plantation of his Majesty's gation ex- in *Asia*, *Africa* or *America*, or shall be laden in, or car- plained and ried from any Port or Place in the said Colonies, or enforced. Plantations, to any other Port or Place in the same; or to *England*, *Wales* or *Berwick*, in any Ship or Bottom, but what is of the Built of *England* or *Ireland*, or the said Colonies or Plantations, and wholly owned by the People thereof, and navigated with the Masters and three fourths of the Mariners of the said Places only (except Prizes navigated as aforesaid, and belonging to the *English*) in Pain of Forfeiture of Ship and Goods, one Third to the King, another Third to the Governor of the said Colonies, or Plantations, and the other Third to him,

him that shall inform and sue for the same, in any of the Courts of *Westminster*, or in any Court in his Majesty's Plantations, where the Offence shall be committed. *Stat. 7 & 8 W. 3. c. 22.*

Oath of the
Governors to
see the said
Acts put in
Execution,

And Pain of
their Neglect.

Naval Officers
in the Plan-
tations, to
give Security
for Perfor-
mance of his
Trust.

Men of War,
and Mer-
chants in the
Plantations,
liable to the
same Rules
there as in
England.

And the present Governors, or Commanders in chief, of any *English* Colonies or Plantations, shall before the 25th of *March* 1697. And all future Governors, before they enter on their respective Governments, shall take a solemn Oath before such Persons as the King shall appoint, to do their utmost that all the Clauses, Matters and Things contained in the aforesaid Acts, relating to the said Colonies and Plantations, and the Clauses in this present Act, shall be punctually and *bona fide* observed, so far as appertains to the said Governors or Commanders in chief; and upon Complaint and Proof by two Witnesses, that any such Governor or Commander in chief hath neglected to take the said Oath at the Times aforesaid, or been willingly negligent in his Duty, he shall be removed from his Government, and forfeit 1000 *l.* *Ib.*

And whereas by the said Act of 15 *Car. 2.* for the Encouragement of Trade, the Governors of the Plantations are empowered to appoint an Officer, called the Naval Officer, by whose Connivance or Negligence divers Frauds and Abuses have been committed; it is hereby enacted, That every Person appointed to the said Office, shall within two Months, or as soon as he can conveniently, after the Entrance upon his Office, give sufficient Security to the Commissioners of the Customs, for the faithful Discharge of his Trust, and in Default thereof, shall be disabled to execute his Office; and until such Security given, and the said Officer shall be approved by the Commissioners of the Customs as aforesaid, the respective Governors shall be answerable for the Neglects or Misdemeanors of the Persons so by them appointed. *Ib.*

And all Ships coming into, or going out of any of the said Plantations, and lading or unlading any Goods there, whether they be Merchant-Ships, or Men of War, shall be liable to the same Rules, Visitations, Searches, Penalties and Forfeitures, as to their Entring, Lading, or Discharge, as the Commanders and Masters of Ships are liable to in this Kingdom, by the 14th *Car. 2.* for preventing Frauds, and regulating Abuses in his Majesty's Customs: And the Officers for collecting and managing his Majesty's Revenues, and inspecting the Plantation Trade there, shall have the same Powers as the Officers of the Customs in *England* have by the said last mentioned Act of the 14th *Car. 2.* for visiting and searching of Ships.

Ships, and taking their Entries, and for seizing and se-
 cturing, or bringing on Shoar any of the Goods prohi-
 bited, to be imported or exported there, or for which
 any Duties ought to have been paid by any of the afore-
 said Acts, and also to enter Houses or Warehouses, to
 search for and seize any such Goods; and all Persons
 concerned in the Concealment, Conveyance, or Rescue
 of the said Goods, or in the hindring or Resistance of
 any of the said Officers in the Performance of their Duty;
 and the Boats and Vessels employed in the Conveyance
 of such Goods, shall be subject to the like Pains as are pro-
 vided by the 14th of *Car. 2.* in Relation to prohibited or
 uncustomed Goods in this Kingdom; and the like Assi-
 stance shall be given the said Officers in the Execution of
 their Office, as in *England*; and the said Officers shall be
 subject to the same Pains for any Corruption or Fraud;
 as the Officers of the Customs in *England* are liable to, by
 the said last mentioned Act: And any Officer prosecuted
 for what he shall do in the Execution of his Office, may
 plead the General Issue, and give this Act, or other
 Custom-Acts in Evidence, &c. as the Officers of the
 Customs in *England* are allowed to do. *Ib.*

And all Forfeitures not herein particularly disposed Forfeitures
 of, shall be one Third to the King, another Third to the recovered and
 Governor of the Colony or Plantation where the Offence distributed,
 shall be committed; and the other Third to him that
 shall sue for the same in the King's Courts in *England* or
Ireland, or in the Court of Admiralty in the Plantation
 where the Offence was committed, at the Pleasure of the
 Informer; or in any other Plantation belonging to any
 Subject of *England*; and where any Question shall arise
 concerning the Importation or Exportation of Goods,
 the Proof shall lie upon the Owner or Claimer, and the
 Owner or Claimer shall be reputed the Importer or Owner
 thereof. *Ib.*

And whereas it has been doubted in the said Act of Ships paying
 25 *Car. 2.* whereby certain Duties are laid on the Com- the Duties in
 modities there enumerated, as if the same were by the one Planta-
 Payment of the said Duties in one Plantation (in order tion for Goods
 to be transported to another) discharged from giving carried to
 the Securities intended by the said Acts of the 12, 22 & another, if
 23 *Car. 2.* and consequently at Liberty to go to any shipped; to
 Foreign Market in *Europe*; without going to *England*; give the same
 it is hereby enacted, That notwithstanding the Payment Security as
 of the aforesaid Duties in any of the said Plantations, other Ships
 none of the said Goods shall be shipped or laden on Board
 until the Security mentioned in the said Acts is given, to

carry the same to *England, Wales, or Berwick*, or to some other of his Majesty's Plantations, and so *toties quoties*, as any of the said Goods shall be re-shipped in any of the said Plantations, on Pain of Forfeiture of Ship and Goods, to be divided as aforesaid. *Ib.*

By-laws in the Plantations, contrary to the Navigation Acts, void.

And it is further declared, That all Laws, By-Laws, Usages and Customs made, or hereafter to be made, or pretended to be in Force in the said Plantations, which are repugnant to the Laws before-mentioned, so far as they relate to the Plantations, or are repugnant to this present Act, or to any other Law hereafter to be made in this Kingdom, so far as such Law relates to and mentions the Plantations, are illegal and void.

Governor may demand fresh Security, where he suspects Certificates to be counterfeited.

And whereas great Abuses have been committed by *Scotsmen*, and others, by obtruding false, counterfeit Certificates on the Governors and Officers in the Plantations, of having given the Security required in *England*, and of having discharged their Lading here, &c. it is hereby declared, That where the Governors or Officers in the Plantations shall have Ground of Suspicion that the Certificate of having given Security in *England*, is false, they shall require and take sufficient Security there for the Discharge of the Plantation lading in *England, Wales or Berwick*; and where there shall be Cause to suspect that the Certificates of having discharged her Lading of Plantation Goods in this Kingdom be false, the said Governors or Officers shall not vacate the Security given in the Plantation, until they shall be informed by the Commissioners of the Customs in *England*, that the Matter of the said Certificate is true. And if any Person shall counterfeit, raze, or falsify any Cocket, Certificate, Return, or Permit, for any Vessel or Goods, or knowingly make use thereof, he shall forfeit 500*l.* to be recovered and disposed as aforesaid. *Ib.*

Penalty of 500*l.* for counterfeiting them.

The Lords of the Treasury, and Commissioners of the Customs, may appoint so many Officers of the Customs, in any City, Town, River, Port, Harbour or Creek in the several Islands, Tracts of Lands and Properties, when Officers in the

And for the better executing the several Acts relating to the Plantation Trade, it is enacted, That the Lord Treasurer, Commissioners of the Treasury, and the Commissioners of the Customs in *England*, shall and may appoint so many Officers of the Customs, in any City, Town, River, Port, Harbour or Creek in the several Islands, Tracts of Lands and Properties, when Officers in the and as often as to them shall seem needful. *Ib.*

Plantations. Trials of Forfeitures in the Plantations.

And in any Suit in the Plantations, concerning the King's Duties, or Goods or Ships forfeited, there shall be upon the Jury, only Natives of *England or Ireland*, or of the said Plantations; and the Offences may be laid in any Colony, Province, County, Precinct, or Division

of any of the said Plantations, at the Pleasure of the Officer or Informer. *Ib.*

Provided all Places of Trust in the Courts of Law, or Places of which relate to the Treasury of the said Islands, shall be Trust to be in the Hands of a Native of *England* or *Ireland*, or of executed by the said Islands. *Ib.* Natives.

And in all Bonds for carrying such Goods as shall be Plantation laden on Board, to some other *English* Plantations, or to Bonds, how *England, Wales, or Berwick*, the Sureties therein named made. shall be Persons of known Residence and Ability in the said Plantations for the Value mentioned in the said Bonds, and the Condition shall be within eighteen Months after the Date (Danger of the Seas excepted) to produce a Certificate of having landed and discharged the Goods therein mentioned, in one of the *English* Plantations, or in *England, Ireland, or Berwick*, otherwise such Bonds, or Copies thereof, attested under the Hand and Seal of the Governor or Commander in chief, to whom such Bond is given, shall be in Force, and allowed in any Court in *England* or *Ireland*, or the Plantations. *Ib.*

And whereas several Ships laden with the Goods of Plantation the said Plantations, have been discharged in *Scotland* Goods landed and *Ireland*, under Pretence that the Ships were driven in *Ireland* or thither by Strefs of Weather, it shall not be lawful, on *Scotland*, for- any Pretence whatsoever, to put on Shoar in *Scotland* or *Ireland*, any Goods or Merchandise of the Growth or Product of the said Plantations, unless the same have been first landed in *England, Wales, or Berwick*, and paid the Duties there, on Pain of forfeiting Ship and Goods, three Fourths, without Composition, to the King, and the other to him that shall sue for the same. *Ib.*

Provided, that if any Ship by Strefs of Weather, Provifo for shall be stranded, or by Leakiness, or other Disability, be Ships in Di- driven into *Ireland*, and shall not be able to proceed on strefs.

her Voyage, then it shall be lawful to put such Goods on Shoar, but they shall be delivered to the Collector or chief Officer of the Customs of the Port or Place there, to remain until at the Charge of the Owner they shall be put on Board some other Ship, in order to be transported and carried to some Port or Place in *England, Ireland* or *Berwick*, the Officer first taking good Security for the landing of the same there. *Ib.*

Proprietors of

And it is hereby enacted, That all Persons claiming the Planta- any Right or Property in any Islands or Tracts of Land tions, not to upon the Continent of *America*, by Charter, or Letters- alien their Patents, shall not alien, sell, or dispose of the said Lands to Fo- Islands, reigners.

Islands, Tracts of Land, or Proprieties, but to natural born Subjects of *England, Ireland, Wales, or Berwick*, without Consent of the King, signified by Order of Council.

Governors appointed by Proprietors shall be approved by the King, and take the Oaths enjoined by this, or any other Act to be taken by the Governors or Commanders in chief in other the King's Colonies and Plantations, before their entering on the Crown, and their respective Governments, under the like Pains, the King's Governors and Commanders in chief are liable to take the Oath, by the said Acts. *Ib.*

Registry of *English* built Ships, how to be made. And no Ships shall be deemed of the Built of *England, Ireland, Wales, Berwick, Guernsey, Jersey*, or the *English* Plantations, qualified to trade in the said Plantations, until the Owner of the Ship shall register the same as follows. (*viz.*) If the Ship belong to any Port of *England, Ireland, Wales, or Berwick*, then Proof shall be made by the Oath of one of the Owners, before the Collector and Comptroller of the Customs in such Port; or if such Ship belong to the said Plantations, or to the Islands of *Guernsey* or *Jersey*, then the like Proof is to be made before the Governor, and the principal Officer of his Majesty's Revenue residing in such Plantation or Island. *Ib.*

The Form of the Oath.

Oath to be taken by the Owner.

I Urat, A. B. That the Ship whereof is at present Master, being a of Tons, was built at in the Year and that of at present Owners thereof, and that no Foreigner, directly or indirectly, hath any Share, or Part, or Interest therein.

Which Oath being attested by the Governor or Custom Officer who administered the same, under their Hands and Seals, and registred by them, shall be delivered to the Master of the Ship, for the Security of her Navigation, and a Duplicate thereof shall be transmitted to the Custom-House in *London*, to be registred there; and any Ship trading to, from, or in the said Plantations, not having made the aforesaid Proof, shall be liable to such Prosecution and Forfeiture, as any Foreign Ship would be for trading with the said Plantations. *Ib.*

Prizes taken. Provided, that Prizes shall be specially registred, mentioning the Capture and Condemnation, instead of the Time and Place of Building, with Proof also, that

the entire Property is *English* before such Prize shall be allowed the Privilege of an *English* built Ship. *1b.*

Provided, that nothing in this Act shall require the Open Vessels registering of Fisher Boats, Hoys, Lighters, Barges, or in the Plantation any open Boats or Vessels, whose Navigation is confined to the Rivers or Coasts of the same Plantation or Place employed, where they trade, but only such as cross the Seas from one Island or Plantation to another. *1b.*

And no Ship's Name registred, shall be changed, Shares sold, without registering such Ship *de novo*, which is hereby to be endorsed required to be done upon any Transfer of Property, to on the Certificate in the same Port; and in Case of any Alteration of Property in the same Port, by the Sale of one or more Shares in a Ship, after registering thereof, such Sale shall be acknowledged, by Indorsement on the Certificate of the Register, before two Witnesses, in order to prove, that the entire Property is *English*, if any Dispute arise concerning it. *1b.*

After the first of *August* 1696, it shall be lawful for 7 & 8 W. 3. any Natives of *England* or *Ireland*, to import into *England*, directly from *Ireland*, any Hemp or Flax, and the Hemp, Flax, Production thereof, as Thread, Yarn, and Linnen, of and Linen to the Growth and Manufacture of *Ireland*, free from all be imported Duties whatsoever, the Master of the Vessel importing from *Ireland*, the same, bringing with him a Certificate from the Chief Custom Officer of the Port in *Ireland*, where such Goods are put on Board, expressing the Marks, Number, Tale, or Weight of the Species in each Bale or Parcel mentioned in the Bills of Lading, with the Name and Place of Abode of the Exporter from *Ireland*, and the Name and Place of Abode of such other Person as shall have sworn the Goods therein mentioned to be of the Growth and Manufacture of the Kingdom, without Fraud, and where and to whom in *England* consigned; and the Master of the Vessel, on Arrival in *England*, making Oath that the said Bales and Parcels, and Goods therein contained, are the same that were taken on Board by Virtue of the said Certificate so to be produced. *Stat. 7 & 8 W. 3. c. 39.*

And for the Encouragement of the further Improvement of making Sail Cloth in *England*, upon due Proof no Custom upon Oath, of its being made in this Kingdom, it shall 9 & 10 W. 3. be exported free from all Custom and Duty whatever, *c. 26.* whether the same be exported in the Piece or Boulter, or *African* Company to maintain in Sails ready made. *1b.*

After the 24th of *June* 1698, The Royal *African* Company, by and with their Stock and Duties hereafter appointed to be paid, shall maintain, support and defend the Duties all such Forts and Castles as they now have, or shall hereby grant hereafter.

hereafter purchase or erect, for the Preservation, Improvement, and well carrying on their Trade, and supply them with Men, Ammunition and Provision, and all other Necessaries. *Stat. 9 & 10 W. 3. c. 26.*

Trade of *Africa* open to all *English* Vessels, paying ten per Cent.

And the better to enable them to maintain the said Forts and Castles, it is enacted, That it shall be lawful for any Subjects of this Realm, as well as for the said Company, after the said 24th of *June*, to trade from *England*, and after the 1st of *August* 1698, from the *English* Plantation in *America*, to the Coast of *Africa*, between *Cape Mount*, and the *Cape of Good Hope*, the said Company, and all other the said Subjects, paying for the Uses aforesaid, a Duty of 10 l. per Cent. *ad valorem*, for the Goods exported from *England*, or the Plantations, to the Coast of *Africa*, between the said Capes. *Ib.*

Entry of Ships which trade thither.

And the Master, Owner, or Freightor of every Ship or Vessel intending to sail between *Cape Mount*, and the *Cape of Good Hope* aforesaid, at one of the chief Custom-Houses in *England*, or in the Plantations from which she is to sail, shall make Entry of the Name of such Master, and the Name of such Ship or Vessel, and the Burthen thereof so freighted, or intended to sail or trade between the said Capes, fifteen Days before she shall be cleared. *Ib.*

Oath of the Value of Goods shipped.

And the Owner or Exporter of such Goods, shall, at one of the said Custom-Houses, make Entry upon Oath, as hereafter is expressed, of the Quantity, Quality, and true Value of all such Goods, and sign such Entry, and at the Time of such Entry and Oath, shall pay the Duty as aforesaid, to the Collector, &c. who shall pay the said Duty to and for the Use of the said Company, as hereafter directed; and all such Goods exported from *England* to the Plantations, and from thence exported to *Africa*, shall be valued at no more than what they cost in *England*. *Ib.*

And the Collector of the Port shall administer the Oath to the Master of the Ship, in the Words following (*viz.*).

Form of the Master's Oath.

I A. B. do swear, That the Manifest or Particular, now by me given in and signed, to the best of my Knowledge and Belief, doth contain, specify, and express, all the Goods, Wares, and Merchandises which are laden or intended to be laden or put on Board the Ship or Vessel called the _____ whereof I A. B. am Master for this Voyage to _____ *Africa*,

So help me God.

And the Owner or Exporter, shall make Oath in the Words following:

I A. B. do swear, That the Entry by me now made, doth Form of the contain and specify all the particular Quantities, Qua i Exporter's ty, and true and full Value of all the Goods, Wares and Oath. Merchandises therein expressed to be shipped on Board the Ship or Vessel called the whereof is Master for the Voyage she is now to proceed on to Africa,

So help me God.

And when any Goods shall be exported from the Plan- *English* Goods tations, to *Africa*, that were imported from *England*, exported from the Exporter shall also swear, That to the best of his the Planta- Knowledge and Belief, such Goods, so entred, were tions to *A-* imported from *England* into that Plantation, and that *frica*. the true Value they cost in *England*, is fully exprest in the said Entry, and that the Master, and one of the Freighters, at the Time of such Entry, or before the Ship is cleared, shall give Bond to the King, to the Va Bond to be lue of the Ship and Lading, that the Ship shall (Wind given by the and Weather, &c. permitting) sail directly to the Coast Exporrer for of *Africa*, between *Cape Mount*, and the *Cape of Good Hope*, lading from and from thence directly return to and unlade in Eng- thence. land, or one of his Majesty's Plantations. *Ib.*

And the said Collector, &c. is appointed to take such Entries to be Bond, and keep in Books a particular Account, distinct made by the from the Custom-House Accounts, of all such Entries Collectors. made, and Duties paid and payable, for the Use of the said Company, and on Demand of the said Company, or their Agents, render to the said Company, or their Assigns, a true duplicate of all such Entries and Oaths made and signed, and Bonds given and Monies paid by the Persons, swearing, signing, and paying the same, and shall pay to the said Company, or their Assigns, the Monies received, deducting 5 l. out of every 100 l. for their Trouble *Ib.*

And after the 24th of *June*, 1698, it shall be lawful Trade be- for any Subject of *England*, as well as the said Company, tween *Cape* to trade from *England*, or the said Plantations, between *Blanco* and *Cape Blanco* and *Cape Mount*, paying a Duty of 10 per *Cape Mount*, Cent. *ad Valorem*, for the Goods exported from *England*, open to all or the Plantations, to the said Coast, and paying a fur- Subjects, on ther Duty of 10 per Cent. *ad Valorem* (Red-wood except- paying cer- ed) which is to pay 5 l. only per Cent. at the Place of tain Duties. Importation upon all Goods (Negroes excepted) impor- ted

ted into *England*, or the *English* Plantations, from the Coast of *Africa*, between *Cape Blanco*, and *Cape Mount* aforesaid. *Ib.*

Entry and
Oath to be
made by
Traders.

And every Master and Trader, sailing or trading from *England*, or the said Plantations between *Cape Blanco* and *Cape Mount*, shall make like Entry and Oath, and give the like Bonds as those trading between *Cape Mount*, and the *Cape of Good Hope*, and pay the Duties in like Manner. And the Collector is required to take such Entries and Bonds, and administer such Oaths, and receive such Duties, and pay the same to the said Company, or their Order, to the Uses aforesaid, and do every other Thing, *mutatis mutando*, as is appointed touching the Masters and Traders trading between *Cape Mount*, and the *Cape of Good Hope*. *Ib.*

A Particular
of the Cargo
to be delivered
into the
Custom-house,
on Arrival of
a Ship.

And all Goods (Negroes excepted) shipped on the Coast of *Africa*, between *Cape Blanco*, and *Cape Mount*, and imported into *England*, or the said Plantations, shall pay the Duties aforesaid, and the Master of the Ship that shall lade or receive any Goods (Negroes excepted) on Board his Ship, between *Cape Blanco*, and *Cape Mount*, shall upon making his Entry at the Custom-Houses aforesaid, or before any Goods be unladed (Negroes excepted) deliver in a Manifest, or Particular of his Cargo, and take the following Oath. *Ib.*

And this Oath
to be taken
by the Ma-
ster.

I A. B. do swear, That the Manifest, or Particular by me given in and signed, to the best of my Knowledge and Belief, doth contain, signify, and express, all the Goods, Wares and Merchandises, (Negroes excepted) which were laden or put on Board the said Ship, called the *during her Stay and continuing on the Coast of Africa, between Cape Blanco and Cape Mount, whereof I A. B. am Master.*

Oath by the
Owner.

And the Owner or Importer of the said Goods brought to *England*, or the said Plantations, from the said Coast, shall make Entry thereof at one of the chief Custom-Houses in *England*, or the Plantations where the same are imported, upon Oath, and sign the same, of the Quantity, Quality, and true Value, to be sold at the Place of Importation, and pay the Duty as aforesaid. And the Collector of the Port is required to take the Entries and Manifests, and administer the Oaths, and receive the Duties aforesaid. And on Demand of the said Company, pay the same to them, or their Order, for the Uses above directed, and shall tender to the said Company

Duties to be
paid to the
Company.

Company a Duplicate of all such Entries and Oaths made and signed as aforesaid. *Ib.*

Provided the said Collector shall deduct for his Trou- Deducting
ble 5 l. for every 100 l. of the Duties received, except 5 per Cent.
what Duties shall arise from the Exports and Imports of
the *African Company*, which shall be exempted from
the said Allowance. *Ib.*

And the said Company shall give a particular Ac- Company to
count in Writing, of all the Monies by them received, give an Ac-
and also by their Exports and Imports arising by the Du- count in the
ties aforesaid, and how they have laid out the same year- Exchequer,
ly, within three Months after the Expiration of the Year, how they di-
unto the Curfitor Baron of the Court of Exchequer; and spose of the
the said Curfitor Baron is empowered to examine upon Duties.
Oath, such Persons as he thinks fit, of the Truth of
such Account, and all Goods (Negroes excepted)
brought from the Coast between *Cape Blanco* and *Cape*
Mount, unladed before due Entry made, &c. shall be for-
feited, or the Value thereof. *Ib.*

Every Ship which shall sail from *England*, or the said Ships and
Plantations, to the Coast of *Africa*, without being duly Goods forfeit-
entred, &c. as aforesaid, shall be forfeited, or the Value ed, failing
thereof, and the Goods put on Board, before such due to *Africa*
Entry made, and Duties paid as above directed, shall be without En-
forfeited or the Value thereof. And every Ship, and try.
the Goods therein belonging to the King's Subjects, that
shall sail from any other Place than from *England*, or
the said Plantations, to the said Coast of *Africa*, shall
be forfeited. *Ib.*

One Third of the said Forfeitures to be to the Use of Forfeitures
the King, one other Third to the Use of the said Com- distributed.
pany, for the Maintenance of the said Forts, and the
other Third to the Informer, to be recovered in any
Court of Record in this Kingdom, or in the said Planta-
tions, by Bill, Plaint, Information, or otherwise, where-
in no Essoign, &c. shall be allowed. *Ib.*

Provided, if any Ship trading to the Coast of *Africa*, Ships cast
and the Goods therein exported, shall be cast away or perish away.
before her Arrival at her Port, then the Exporter shall
upon sending any other Ship to the said Coast, be
allowed as much as was paid to the said Company for
the Goods so lost. *Ib.*

Provided, that all natural born Subjects of *England*, Separate Tra-
trading to the Coast of *Africa*, and paying the said Du- ders Privi-
ties, shall have the same Protection for their Persons, leges.
Ships and Effects, by the said Forts, and the like Freedom
and Security for their Negotiations and Trade, as the said
Company, or their Agents. *Ib.*

And

And all Persons trading to *Africa*, and paying the said Duties, are empowered at their own Charge, to settle Factories there, within the Limits aforesaid. *Ib.*

Goods exported unfold.

Provided that if any Goods so exported to *Africa*, having paid the Duties, shall be brought back again to *England*, or the Plantations, it shall be lawful to export the same again to *Africa*, without paying any Duties, Oath being made by two Persons, not having Property in them, that they paid the Duty upon the first Exportation, and producing a Copy of the Entry made at the first Exportation, attested by the Oaths of two Witnesses. *Ib.*

Duties appropriated to maintaining Forts on the Coast of *Africa*.

The Duties arising by this Act, are hereby appropriated to the Maintenance of the Forts and Castles on the Coast of *Africa*, and for the providing them with Ammunition, and all needful warlike Stores, and a sufficient Number of Officers and Soldiers; and a true Account of the said Duties and Expences, shall be kept in Books at the *African-House* in *London*, to be perused by the Traders to *Africa*; and an Account shall be stated at *Michaelmas* yearly, or within twenty Days, and recorded in the Court of *Exchequer*, provided no Duty shall be levied for Gold or Silver imported from *Africa*. *Ib.*

No Duty for Gold or Silver imported. Trade to *Barbary* not included.

Provided this Act shall not exclude any Person from trading to that Part of *Africa* called *Barbary*, extending Southerly as far as *Cape Blanco*.

Foreign Copper may be exported, and have a Draw-back of the Duties.

It shall be lawful for any Subject to export from *England*, all such Copper-Bars as are imported from foreign Parts; and there shall be a Draw-back thereon, of all the Duties, save the Half of the old Subsidy, as is usual in other Commodities. *Ib.*

No Governor or Judge in the Plantations, shall be Factor or Agent for disposing of Negroes.

No Governor, or Deputy Governor, of any of his Majesty's Colonies, or Plantations in *America*, or the Judges in any of the Courts there, or any Person for their Use, or on their Behalf, shall be a Factor or Agent for the said Company, or any other Person, for the Sale or Disposal of the Negroes, on Pain of 500 *l.* to the Use aforesaid, to be recovered in any of the Courts at *Westminster*, by Action of Debt, Bill, &c. wherein no Evidence, &c. shall be allowed. *Ib.*

This Act to continue for thirteen Years, and to the End of the next Sessions of Parliament. *Ib.*

7 & 8 W. 3. c. 21. Seamen to register in some Office.

Every able Mariner, Seaman, Waterman, Fisherman, Lighterman, Bargeman, Keelman, or Seafaring Man, being a natural born Subject of the King's Dominions, or being naturalized, or made a Denizen, and above the Age of Eighteen, and under fifty Years of Age, who shall be willing to enter and register himself in the

King

King's Service, in the Royal Fleet or Navy, may by himself, or any other Person authorized by him in Writing, give in his Christian and Surname, Age, Addition, and Place of Abode, unto the Officers hereby appointed for registering Seamen. And such and so many Offices shall be kept for registering them, at the Charge of his Majesty, at the Navy-Office in London, or other Places, as his Majesty or the Admiralty shall from Time to Time appoint; so as the said Register shall be truly entered down in Order and Course of Time, with the Day and Times of such Entry *gratis*. And whoever shall knowingly make, or cause to be made, in any of the said Offices, any Entry of the Name of any Person, save of the very true Person, and according to the Truth of the Matter contained in such Entry; he shall forfeit 100 l. one Moiety to the King, and the other to him that shall sue for the same, by Action of Debt, &c. And king an un- the said Registers before the Entrance on their respective true Entry. Offices, shall take an Oath before the Judge of the Admiralty, or two Justices of Peace of the County, or Place where such Office shall be, for the faithful Discharge of their Office. 7 & 8 W. 3. c. 21.

And the Navy-Office, or other Office to be appointed by his Majesty, shall be called the Head-Office, where- gistring. unto the other Registers in the Sea-Ports, and other Places, shall without Fee make and give Certificates under their Hands and Seals, of the Number, Names, Places of Abode, and Additions of all Seamen, Watermen, Fishermen, Lightermen, Bargemen, Keelmen, and Seafaring-Men; that shall be entered in their respective Offices, and the Days and Times when such Entries were made, which shall be transmitted to, and filed in the Navy-Office, or other Office, in Course of Time, and in like Manner be registered there. A true Account of all which, shall once a Year, or oftner (if required) be given by the Officers of the said Office to the Admiralty, who are to take Care that so many registered Men as they shall find proper for the King's Service, may yearly be disposed of for the Service of the Fleet. *1b.*

And in every Year (the Year to begin the first of January) during which the whole Number of registered to be paid all Seamen then alive, shall not exceed thirty Thousand; registered Seamen every such registered Seaman, whether he be in actual men. Service or not, shall be paid and allowed by the King, the yearly Sum, or Bounty of 40 s. besides such other Pay and Allowances as he shall be entitled to, by being in his Majesty's actual Service. *1b.*

And

None but registered Men capable of a Commission or Warrant-Office.

And in every Year, during which the whole Number of registered Seamen then alive, shall exceed thirty Thousand, there shall be in like Manner paid and allowed a Bounty of 40 s. a Piece, to thirty Thousand of the Number, viz. to such of them as by the Books shall appear to be longest registred; and none but such registred Men shall be capable of being preferred to any Commission, or Warrant-Office in the Royal Navy. *Ib.*

Assignment of Pay.

And every such registred Seaman, being designed for any foreign Voyage, in the King's Service, is hereby authorized to assign or appoint his Wife, or any other Person, any Part of his Pay, due, or to be due to him for his Service not exceeding two Months Pay in six; which Assignment shall be duly satisfied upon Proof made of the six Months Service, by Return of Musters according to the Practice of the Navy. And on like Proof of such Seaman's Death in the Service, the Wages due to him shall be paid to his Executors, or Administrators, without waiting for the Ship's return, or her general Pay. *Ib.*

Double Share of Prizes.

And every such registered Seaman, shall receive for his Share of all Prizes taken at Sea, wherein he shall be concerned, a double Part or Share more than any other Seaman of the like Quality in the Ship, who shall not be registred. And upon producing a Certificate under the Hand and Seal of the Register of the said Office, of his being registred as aforesaid, he shall be exempted from serving on Juries, or being concerned in the As-

Excused from Offices and Parish-Duties.

sessments of any publick Taxes; and from serving as Constable, or any other Parish-Office, without his Consent; which Certificate shall be given gratis: And every Election of such registered Seaman, to any of the Offices or Employments aforesaid, without his Consent, shall be void. *Ib.*

Disabled Seamen, and their Widows and Children to be provided for in the Hospital.

And for Relief of every such registred Seaman, who by Age, Wounds or other Accidents, shall be disabled for their future Service at Sea, and shall not be in a Condition to maintain himself comfortably, and the Children of such disabled Seaman; and the Widows and Children of such of them as shall be slain, killed or drowned in Sea-Service (so far as the Hospital at Greenwich founded by his Majesty shall be capable to receive them, and the Revenue thereof will extend) every such registered Man, disabled as aforesaid, shall upon Certificate thereof from the Captain, Master, Surgeon and Purser (or such of them as shall be in such Ship) under their Hand and Seal, to the Governors of the said Hospital at Greenwich, shall be admitted into the said Hospital, and have provided

ded and allowed unto him, during Life, out of the Revenues thereof, according to the Rules and Constitutions to be settled for the said Hospital, fitting and convenient Lodging, Meat, Drink, Clothing, and other Necessaries and Conveniencies. *Ib.*

And also the Widows and Children of such registered Seamen, who shall be slain, killed or drowned in the Sea-Service, and not of Ability to provide comfortably for themselves, shall be received into the said Hospital, and there provided for; and the said Children shall be educated at the Charge of the Hospital, till they are fit to be put out, or of Ability to maintain themselves.

Provided that if any such registered Man, shall, during the Time of actual War, withdraw or absent himself from the King's Service, in his Royal Navy, and himself, to shall not within thirty Days after Summons, from the Lord High Admiral, or Commissioners of the Navy, or the said fit of this Act. Registers, or the Vice-Admirals of the several Counties, or their Deputies, repair on Board such of the King's Ships to which he shall belong, or by them be appointed to serve on Board (not being hindered by Sicknefs or Infirmary, attested by the Oaths of two credible Witnesses to the Admiralty, &c.) Or if he shall absent himself, or relinquish the King's Service without Consent of the Admiralty, &c. then every such registered Man, shall lose the Benefit of this Act, and serve the King six Months without Pay: But such Person, for such Offence only, shall not suffer as a Defenter, provided that this Act shall not alter the Punishment appointed by the 13 Car. 2. for such Captains, Officers or Mariners, as shall desert the King's Service, or entice others so to do. *It.*

And after the Expiration of twenty five Years, to be None but reckoned from the 25th of March 1696, no Person shall be capable of being a Brother of Trinity-House, of Deptford-Strand, but only such as at the Time of Election, or before, shall be, or shall have been registered as afore-said. *Ib.*

And every Seaman who shall serve in the King's, or any Subject's Ship, or Vessel whatsoever, shall allow, pay 6 d. per Month and there shall be paid out of the Wages of every such Month to the Seaman, Sixpence per Month, for the better Support of said Hospital. the said Hospital; which monthly Allowance shall be levied and collected by such Officers, and according to such Rules as shall be appointed by the Admiralty. *Ib.*

Provided that every Seaman, at the Time of his being registered, shall bring a Certificate of his Place of Abode, under the Hands of two Justices of Peace of the County, or Place where he lives; and shall bring a new Certificate

cate every Time he changes his Abode, to the said Registers, on Pain of losing the Benefit of his being registered. *1b.*

Provided that every registered Seaman, under the Age of eighteen Years, or above the Age of fifty five, shall be exempted from serving on Board the King's Ships, upon Summons, unless he consents to serve.

Seamen preferred, not entitled to the Bounty.

Provided that where any Seaman shall be preferred to be a Commission, or Warrant-Officer in the King's Service, or Master, Mate, Boatswain, Gunner, Carpenter, Purser or Surgeon, he shall not be entitled to the said Bounty of 40 *s. per Annum*, or other Benefits hereby intended for Seamen, in respect of their being registered; or be liable to the Pains whereunto Seamen not registered, or not serving as this Act directs, are subjected. *1b.*

Provided also that it shall be lawful for the Admiralty to discharge any registered Seaman, upon any Cause for which it shall be desired, or for any Offence to dismiss and expunge any Seaman from the said Register, and thereby deprive him of the Benefit thereof at Discretion.

Landman going to Sea, not to be pressed.

And Licences shall at any Time be given by the King, or the Admiralty, to any Landman to serve in Merchant-Ships, or other trading Vessels, which shall be to them a Protection against being impress'd for two Years, after the Date of such Licence; provided such Landmen bring to the Register, two credible Inhabitants of the Place where they enter themselves, who shall assert their Knowledge of them for two Years past, and what Profession or Business they have known them employed in. And if any Person vouch one to be a Landman, who is afterwards proved to be a Seaman, he shall forfeit 20 *l.* to be levied in Manner and to the Uses aforesaid. And any Seaman personating another; and any Seaman or other Person counterfeiting any Licence, shall forfeit 20 *l.* to the said Uses, and incur such other Punishments as may be inflicted by Law; and a Seaman offending as above, shall be incapable of the Benefit of this Act. *1b.*

Forfeiture of Counterfeits.

Cinque-Ports.

And all Seamen, and Seafaring-Men as aforesaid, who are Inhabitants of any of the Cinque-Ports, or the Towns and Members thereof, shall be registred at such Places, within the said Cinque-Ports, &c. and in such Manner, and by such Persons, Registers, as shall be appointed by the Lord-Warden of the Cinque-Ports, or in his Absence, by the Lieutenant of Dover-Castle, who shall also be sworn duly to execute their Trusts aforesaid, before the said Lord-Warden, the Lieutenant of Dover, or his Deputy, or before the Mayor of one of the Cinque-Port Towns or Members; and shall observe such Rules and

Direction

Directions as are before given by this Act, and such other Directions as the King, and the Lord-Warden of the Cinque-Ports, shall give according to the Tenor of this Act. And all Seafaring-Men, their Wives and Children so registred, shall have the like Advantage as those elsewhere registred, and be liable to the like Pains, for not repairing on Board, on Summons of the said Warden, the Lieutenant of *Dover-Castle*, or his Deputies; or in Case of Desertion, &c. as other registred Seamen are liable to for such Misdemeanors. *Ib.*

And it is hereby declared, That no Persons registering themselves as aforesaid, shall by vertue of any Powers herein contained, be obliged to serve, or shall serve as Land Soldiers, in any other Quality but as Seamen, in his Majesty's Fleet or Navy; provided nothing herein shall extend to the debarring any Person from being a Chaplain, Surgeon, or any other Officer, in any Office in the Navy, not of Necessity to be executed by a Seafaring-Man. *Ib.*

Every Person who by vertue of an Act the 7th and 8 & 9 W. 3. 8th W. 3. cap. 21. for the Encouragement and Encrease c. 23. of Seamen, is entitled to the Provisions, Allowances and Persons to be Advantages in the Hospital, in the said Act mentioned; received into and out of the Revenues thereof, shall from Time to the Hospital Time be palced in, and received into the said Hospital up in the Order on Certificate, as in the said Act is directed, in Successi- they are regi- on one after another, as the Person registred shall ap- firmed. pear, in Course and Order of Time to be upon the Registry-Book. And the Widows and Children of the Person longest registred always to be preferred, and admitted into the said Hospital, and the Benefits thereof before others. 8 & 9 W. 3. cap. 23.

And such Certificate as the said Act directs, under the Certificate by Hand of one Justice of Peace, shall entitle him to all one Justice. the Benefits and Advantages given by the said Act, as well for himself, as for his Wife, Widow and Children, as if such Certificate were under the Hands of two Justices of Peace. The said Justice to make Enquiry into the Truth of such Certificate by him given, and to examine the Party desiring it upon Oath, if he sees Occasion; and if he shall discover any Fraud, he is required to certify the same to the Admiralty. Any Person registred, who shall arrive to the Degree of a Master's Mate, shall be entitled to the Benefit and Advantages given by this and the said recited Act. *Ib.*

Every such Seaman and Person above the Age of fifty Years, and who by the said Act might register himself, if he were not of that Age, if he shall appear by the

the Books in the Navy-Office, to have serv'd faithfully on Board the King's Ships, for seven Years last past, without deserting, he shall, upon producing a Certificate under the Hand of a Justice of Peace, as aforesaid, be registered, and enjoy the Advantages given by the said Act; but after the 10th of April 1699, no Person above the Age of Fifty shall be permitted to register himself, without giving such Reasons for omitting to do it sooner, as shall be approved by the Admiralty, three of the Commissioners of the Navy, or the Person appointed to keep the said Register. *Ib.*

Masters examined as to the Number of their Hands

And for the better collecting the Duty of 6 *d.* per *Man*, given by the said Act, the Commissioners for registering Seamen, or their Deputies, are empowered by Warrant under their Hands and Seals, to cause all Masters of Ships, not in his Majesty's Service, to appear before them, and be examined upon Oath, as to the Number, Rates, Salaries, Wages and Times of Service of all Persons serving in such Ships and Vessels; and if any shall refuse to appear, or to submit to such Examination upon Oath, he shall forfeit 10 *l.* to the Uses mentioned in the said recited Act: And if the Master be a *Quaker*, he shall make his solemn Affirmation instead of answering upon Oath, or be subject to the like Penalty. *Ib.*

And if any registered Seaman, shall directly, or indirectly, lend to, leave with, or dispose of his Certificate of being registered, to any Seafaring-Man, thereby to protect him from being impressed, it shall be lawful for the Admiralty to cause such Offender to be struck out of the said Register, and lose the Benefit of the said recited Act, and he shall be compelled to serve the King six Months without Pay: And every Person who shall borrow such Certificate, or make use of it for the Purpose aforesaid, shall suffer the same Pains, and to the same Uses, as are provided in the said Act, against those who vouch falsely Persons to be Landmen, who are Seamen; or shall be compelled to serve the King six Months without Pay.

A Certificate under the Hand of the Mayor, Deputy-Mayor, Bailiff, or Deputy-Bailiff, in the Jurisdiction of the Cinque-Ports, shall be sufficient where no Justice of the Peace is residing, or inhabiting within three Miles of such Port or Town. *Ib.*

9 & 10 W.

3. c. 28.

Wrought Plate in Watches, Sword-Hilts, &c. may be exported,

Whereas by an Act of 7 & 8 W. 3. cap. 19. to encourage the bringing Plate into the Mint to be coined, &c. it is enacted, That no wrought Plate of this Kingdom shall be shipped off under great Penalties. It is hereby enacted, That after the 24th of June 1698, it shall be lawful to export such Watches, Sword-Hilts, wrought

Plate, and other Silver Manufactures made in this Kingdom, being of the Fineness of eleven Ounces and ten Penny Weight, to every Pound Troy, and so proportionably for a greater, or lesser Weight, according to the Rules prescribed in the Act of 8 & 9 W. 3. c. 8. as shall be yearly allowed by the Commissioners of the Customs, or any three of them. Stat. 9 & 10 W. 3. c. 28.

No Person shall export, or endeavour to export any, But no Case, outward or inward, Box, Case, or Dial-Plate of Gold, or Face of a Silver, Brass, or other Metal, for Clock or Watch, with- Watch, or out the Movement, in, or with every such Box, Case, Clock, with- or Dial-Plate, made up fit for Use, with the Clock, or out the Movement. Watchmaker's Name engraven thereon.

Nor shall any Person make up, or cause to be made Makers own up, any Clock, or Watch, without putting his own Name on every Name and Place of Abode, or Freedom (and no other ry Clock or Name or Place) on Pain of Forfeiture of the same, and Watch. 20 l. for every Offence, one Moiety to the King, and the other to him that will sue for the same, by Action of Debt, Bill, &c. wherein no Essoign, &c. shall be allowed.

Any Person may be admitted of the *Russia-Company*, 10 & 11 W. on Payment of five Pounds. 3. c. 6.

It shall be lawful for any Subject of *England*, or the 10 & 11 W. Dominions thereof, to trade to *Newfoundland*, and the 3. cap. 25. Seas, Rivers, Lakes, Creeks or Harbours, in or about Trade to *Newfoundland*, or any of the Islands adjoining, or adjacent to *Newfoundland* or- cent thereto, and to use and enjoy the Freedom of taking pen to all En- Bait, and Fishing in any of the Rivers, Lakes, Creeks, glish Subjects, Harbours or Roads there, with Liberty to go on Shore, and Foreign- on any Part of *Newfoundland*, or any of the said Islands, ers excluded. for the curing, salting, drying and husbanding their Fish, and for making Oil, and to cut down Wood, for making or repairing of Stages, Ship-Rooms, Train-sats, Hurdles, Ship-Boats, and other Necessaries for themselves, and their Servants, Seamen and Fishermen, and all other Things advantageous to their Fishing Trade, as fully and freely, as hath heretofore been used by any of the King's Subjects, without Disturbance; and no Alien not residing in this Kingdom, shall hereafter take any Boat, or use any Sort of Trade or Fishing there. Stat. 10 & 11 W. 3. c. 25.

After Lady-Day 1700, no Balast, preft Stones, or a-Harbours to any Thing hurtful to the Harbours there, shall be thrown be preserved. out of any Ship, or otherwise to the Prejudice of the said Harbours; but such Balast, and other Things, shall be carried on Shore, and laid where they are no Annoyance. 16.

Stages not to be demolished. And no Person shall at his Departure from the said Country, or at any other Time, destroy, deface, or do any Detriment to any Stage, or Cookroom, or to the Flakes, Spikes, Nails, or other Things thereto belonging, as he shall fall into at his Coming into the said Country; but shall, during his Stay, content himself with such Stages as are needful for him, and at his Departure, shall leave all his Stages without doing them any wilful Damage; and for repairing such Stages as he shall take during his Abode there, he shall fetch Timber out of the Woods, and not demolish or prejudice the Stages of other Persons. *Ib.*

Orders to be observed in the Fishing-Season.

And according to ancient Custom, every such fishing Ship as shall first enter any such Harbour, or Creek in *Newfoundland*, shall be Admiral there during the fishing Season; and for that Time shall reserve to himself only, so much Beech, or Flakes, or both, as are needful for the Number of Boats he shall use there, with an Overplus only for the Use of one Boat more than he needs, as a Privilege for his first coming thither. *Ib.*

And the Master of the second Ship that enters any Harbour, or Creek, shall be Vice-Admiral of that Harbour, or Creek, during that Season. And the Master of the third Ship, shall be Rear-Admiral. And the Master of every fishing Ship, shall content himself with such Beech, or Flakes, as shall be necessary for him, without keeping more, to the Prejudice of any other Ship arriving there. *Ib.*

A Person possessed of several Places, in several Harbours, or Creeks, shall make his Election what Place he will choose to abide in, and upon Demand by any After-Comer, shall give, or send his Resolution (the Weather permitting) within forty eight Hours after such Demand, to the End that such After-Comer may also choose the Place of his Abode; and in Case any Dispute arise, the Admirals of the respective Harbours where such Difference is, or any two of them, shall proportion the Places of the several Ships in the Harbours they fish in, according to the Number of Boats each of the said Ships shall use. *Ib.*

And if any of the Inhabitants of *Newfoundland*, since the Year 1685, have seized, or detained any Stage, Cook-room, Beech, or other Place for taking Bait, or Fishing, for the drying, curing, or husbanding of Fish, he shall relinquish the same to the publick Use of the fishing Vessels, for the drying, curing and husbanding their Fish. *Ib.*

And for preventing the ingrossing, and detaining all such Stages, &c. for the future, no Fisherman, or Inhabitant of *Newfoundland*, or other Person whatever, shall take up, or possess any of the Stages, &c. which since 1685, did, or shall at any Time hereafter belong to any fishing Ship, for taking Bait, or Fishing, or for drying, curing, or husbanding of Fish, before the Arrival of the fishing Ships from this Kingdom, until all such Ships shall be provided with Stages, &c. *Ib.*

Provided that all Persons who since the 25th of *March* 1685, have built, cut out, or made, or shall build, cut out, or make any Houses, Stages, Cookrooms, Trainfats, or other Conveniencies for Fishing, that did not belong to fishing Ships, since 1685, may quietly enjoy the same to their own Use, without Disturbance. *Ib.*

And no Persons who shall go over with their Servants to *Newfoundland*, to keep Boats on a fishing Voyage, called By-Boat-Keepers, shall meddle with any Houses, Stage, Cook-room, Train-fat, or other Conveniency, that did belong to fishing Ships, since 1685, or shall be made by such Ship after 1700. *Ib.*

Every Master of a By-Boat shall carry with him at least two fresh Men in six, (*viz.*) One who has gone but one Voyage, and one who has never been at Sea before. And every Inhabitant shall be obliged to employ two such fresh Men, as the By-Boat-Keepers are obliged to keep. And all Masters of Ships, shall have in their Ship's Company, one Man that never was at Sea before, for every five. And the Masters of such By-Boats, and fishing Ships, shall make Oath before the Collector, &c. of the Customs, in the Port from whence they sail, that they have such fresh Men as the Act directs; and the Collector shall administer the said Oath, and give a Certificate thereof *gratis*. *Ib.*

No Person shall obliterate, expunge, cut out, deface, change, or alter the Mark of any Boat, or Trainfat, belonging to another Person, to defraud, or prejudice the right Owner, or convert to his own Use any Boat, or Trainfat, belonging to any Person, without his Consent; or remove the same from the Place where they are left by the Owner (except in Case of Necessity) and also giving Notice to the Admiral of the Harbour, or Creek, that the Owner may know what is become of them. *Ib.*

And no Person shall rind any of the Trees, or fire the Woods, or destroy the same, for any Use whatsoever, except for Fuel, or for Building, or necessary Repairs of Houses, Ships, Boats, Trainfats, Stages, &c. for curing

and husbanding Fish. Nor shall any Person cast Anchor, or do any other Thing to the Annoyance or hindering the haling of Sayns, in the accustomed baiting Places, or shoot his Sayn, within, or upon another's. Nor shall steal Purloyn, or take out of the Nets of another, lying a-drift, or drove, for Bait by Night. Or steal any Bait out of any fishing Boat, or any Net belonging to another Person. *Ib.*

Capital Offences committed at Newfoundland, to be tried in England.

All Robberies, Murders, Felonies, and other capital Crimes, committed upon Land, in *Newfoundland*, or the Islands thereto belonging, shall, and may be tried in any County in *England*, by virtue of a Commission of Oyer and Terminer, and Goal-Delivery, as Offences committed within this Realm used to be. *Ib.*

And the Admiral of every Harbour in *Newfoundland*, is required to see this Act put in Execution, and to keep a Journal of the Number of Ships, Boats, Stages, and Trainfats, and of all the Seamen belonging to, and employed in each of their respective Harbours; and at their return to *England*, to deliver a Copy thereof under their Hands to the Privy-Council. *Ib.*

And if any Difference arise between the Masters of fishing Ships, and the Inhabitants in *Newfoundland*, or any By-Boat-Keeper, concerning the Right of Fishing, Rooms, Stages, Flakes, or other Building, or Convenience for Fishing, or curing Fish, in the several Harbours or Coves; it shall be determined by the respective fishing Admirals: And in Case any of them think themselves aggrieved, they may appeal to the Commanders of his Majesty's Ships of War, appointed for Convoys thither, who are empowered to determine the same, Pursuant to the Regulation in this Act. *Ib.*

And all the Inhabitants of *Newfoundland*, and the Islands thereto belonging, shall decently, and strictly observe every Lord's-Day. Nor shall any Person, keeping a Publick-House there, entertain, sell, vend, utter or dispose of to any Fisherman, Seaman, or other Person, upon that Day, any Wine, Beer, Ale, Cyder, strong Waters, or Tobacco, or any other Liquors whatsoever. *Ib.*

Whalefins, Oil and Blubber, taken by the English, exempt from Duties.

And it is hereby declared, That all Whalefins, Oil, and Blubber, taken and imported by the *Greenland-Company*, are not liable to the Duty 12 *d.* for every 20 *l.* Value of Goods imported, charged by the 8 & 9 *W.* 3. or by the 9 & 10 *W.* 3. but that the same, and also all Whalefins, Oil and Blubber of *English* Fishing, taken in the Seas of *Newfoundland*, or of any of the *English* Plantations, and imported in this Kingdom by any Subject

Subject thereof, in *English* Shipping, are free of the said And all other Duties, as all Fish of *English* taking, the aforesaid Acts Fish. notwithstanding.

After the 30th of *March* 1700, all Duties payable by any 11 & 12 W. 3. Act, or Law whatsoever, for, or upon the Exportation c. 20. of any long Cloths, short Cloths, Kerseys, Bays, or Ser-Woollen Man- ges, Cottons, Stuffs, Stockings, Hats, Caps, or any other nufactures Manufactures of Sheeps-Wooll, or Coney-Wooll, or mixed exempted with either of them, made or manufactured in *England*, from Duties. or *Wales*, shall cease and be no longer paid. Stat. 11 & 12 W. 3. c. 20.

And further, That the Subsidy and Aulnage for the Aulnage Du- old and new Draperies, and of all Woollen-Manufactures ties taken a- in this Kingdom, shall, after the Expiration of the two way. Grants, to *Charles* Duke of *Richmond* and *Lenox*, for sixty Years, dated the 18th of *December*, 16 Car. 2. cease and be no longer payable. Ib.

The Right of Sir *James* Wright, and Sir *Peter* Apsley Duties on saved, who had a Grant from Car. 2. of which there is Corn and about eight Years to come. Ib. Grain taken

And further, all Duties payable for, or on the Expor-away. ation of Wheat, Rye, Barley, Malt, Beans, Pease, and other Sorts of Grain, ground or unground, or on the Exportation of Bread, Biscuit, or Meal, shall cease, and be no longer payable. Ib.

Whoever shall import into this Kingdom, from the 3 Ann. c. 10. *English* Colonies, or Plantations in *America*, in any Ship Premiums on navigated according to Law, any of the Naval Stores importing hereafter named, shall have the respective Rewards or Naval Stores Premiums following, viz. from the

For every Tun of Tar, containing eight Barrels, and Plantations. each Barrel thirty one Gallons and half, four Pounds.

For every Tun of Pitch, containing twenty gross Hundreds, Net Pitch to be brought in eight Barrels, four Pounds.

For every Tun of Rosin, or Turpentine (of the same Content) four Pounds.

For every Tun of Hemp, water-rotted, bright and clean, and containing twenty gross Hundreds, six Pounds.

For every Tun of Masts, Yards, and Bowsprits, al- lowing forty Foot to each Tun, girt Measure, one Pound. 3 Ann. c. 10.

And the Commissioners, or principal Officers of the Bills for the Navy, shall make out Bills for the Payment of the said Premiums on Premiums upon a Certificate of the Importation thereof, a Certificate from the chief Officer of the Customs, in any Port of the Import- where such Naval Stores shall be imported: And such tation.

Bills shall be given to the Importer, within twenty Days after the unlading of the Ship, upon a Certificate produced to the chief Officer of the Customs, under the Hand and Seal of the Governor, Deputy-Governor, Collector of the Customs, and Naval Officer, or any two of them in the *English* Plantations; that the Importer hath made Oath before them, That the said Naval Stores were truly, and *bona fide*, of the Growth and Produce of the said Plantations; and upon Oath likewise in any Port of *England*, by the Master of the Vessel importing such Stores, That the same were the Produce of, and imported from the said Plantations. *Ib.*

The Navy to have the Refusal of such Stores.

Provided that upon the Importation of such Naval Stores, the Pre-emption, or Refusal of them, shall be tendered to the Commissioners of her Majesty's Navy, upon the landing the same; and if the said Commissioners shall not within twenty Days after Tender, contract for them, it shall be lawful for the Importer to dispose of the said Stores elsewhere. *Ib.*

Destruction of Pine-Trees, &c. prohibited.

And no Person within the Colonies of *New-Hampshire, Massachusetts Bay, Rhode-Island, Providence Plantations, the Narraganset Country, or King's Province, and Connecticut in New-England, New-York, and New-Jersey*, shall presume to cut, fell, or destroy any Pitch, Pine-Trees, or Tar-Trees, not within some Fence, or Inclosure, under the Growth of twelve Inches diameter, at three Foot from the Earth, on Pain of five Pounds for every Offence, on Proof by one Witness before any Justice of Peace, where the Offence shall be committed, to be divided between the Crown and the Informer. *Ib.*

Woods preserved.

And no Person within the said Colonies of *New-Hampshire, &c.* shall voluntarily set Fire to any Woods or Forests, in which there are any Pitch, Pine-Trees, or Fir-Trees prepar'd for making Pitch or Tar, without giving Notice to the Person who prepar'd such Trees, or to some Justice of Peace, and on Pain of ten Pounds, to be recovered and divided as aforesaid, the said Penalties and Forfeitures to be levied by Warrant of one Justice of Peace.

Subject to Laws of Navigation.

Provided also, that the Importation of such Naval Stores be subject to the same Regulations, as to the Shipping and Navigating them, and such Securities given for importing the same into *England*, and under the same Penalties and Forfeitures as the Importation of Sugar, Tobacco, Cotton, Wooll, Indico, Ginger, Fustick, and other Dying-Woods from the Plantations are subject to.

Whereas

Whereas by an Act of the 7th W. 3. For the Encrease ^{10 A. c. 17.} and Encouragement of Seamen, and another Act of the 8th W. 3. To enforce the said Act for the Encrease and Encouragement of Seamen, a Duty of Six-pence a Month was made payable by all Seamen, for the Support of Greenwich-Hospital; for the better Collecting thereof, it is hereby enacted, That every Seaman, or other Person Who shall who shall be employed in the Service of her Majesty, or pay the 6d per any of her Subjects, in any Ship or Vessel belonging to Month to Great-Britain or Ireland, or the Dominions thereof; and Greenwich-every Master or Owner, navigating his own Ship or Hospital. Vessel, whether employed upon the High-Seas or Coasts, or in any Port, Bay or Creek, (other than Apprentices under the Age of Eighteen, exempted by an Act of 2 Anne. And such Persons as shall be employed in any Boat on the Coasts of Great-Britain and Ireland, in taking Fish which are brought fresh on Shoar, and all Persons employed in Boats and Vessels that Trade only from Place to Place within any River of Great-Britain or Ireland, or in any open Boat upon the Coasts of the same) shall pay Six-pence per Month, or proportionably for a lesser Time, they shall be employed or belong to any Ship or Vessel for the better Support of Greenwich-Hospital. 10 A. c. 17.

And the Masters and Owners of every Ship and Vessel not in her Majesty's Service, are required to deduct the Master out of the Wages payable to any Seamen, or other Person employed in such Ship or Vessel, the said Duty of Wages. 6d. per Menssem, and pay it over to such Persons as are appointed by the Admiralty to receive it. 1b.

The Admiralty are empowered to appoint Collectors, Collectors appointed and allow them Salaries out of the said Duties. 1b.

And the said Collectors are empowered to examine Who may examine Masters and Owners upon Oath, concerning the Number of Hands from Time to Time employed by them: And Masters upon if they refuse to appear, or to answer on Oath, or to pay Oath. the Money due to the Hospital, fourteen Days after they shall be cleared inwards by the Officers of the Customs, they shall forfeit respectively, the Sum of Twenty Pounds, to be divided between the said Hospital and Informer, on Recovery thereof in any Court of Record, with double Costs: And any Ship or Vessel may be detained from going to Sea again, 'till the Duties of the preceding Voyage shall be paid. 1b.

The Affirmation of a Quaker shall be accepted instead Quaker's Affirmation. of an Oath; and any Person making a false Oath or Affirmation, shall incur the Pains of wilful Perjury. And altho' the Mariners Wages, by Contract between them

them and the Masters shall not become due, yet the said Duties shall be paid for the Months they shall have served. And Persons sued for any Thing done in Execution of this Act, shall have treble Costs. *Ib.*

Persons exempted from this Duty.

Provided that this Act do not extend to oblige the Payment of 6 *d. per Menssem* by Persons belonging to any Hoys, or other Vessels belonging to the Port of London, and employed within the North Foreland, in bringing Corn, Fish, or other Provisions to the said Port of London. *Ib.*

The following Clauses, relating only to such Sums as ought to have been paid out of every Prize taken during the late War, to Greenwich-Hospital, are here omitted.

Persons wounded in Defence of Merchants, entitled to a Place in the Hospital.

And it is recited, That whereas no Seamen have hitherto been admitted into the said Hospital, but such as served in the Royal Navy, notwithstanding great Sums have been payed by those employed in Merchants Service, towards the Support of the said Hospital: It is hereby enacted, That any Seaman shall have a Title to be admitted into the said Hospital, who shall produce a Certificate of his having been wounded, maimed, or Hurt, in defending any Ship belonging to a Subject of this Crown, against the Enemy, or in taking any Ship from the Enemy. *Ib.*

Ships may not ride at the King's Moorings.

And it is enacted, That if any Merchant-Ship or Vessel shall ride at her Majesty's Moorings, without any apparent Necessity, the Master shall forfeit Ten Pounds for every Tide he shall remain at the said Moorings, to be divided between the said Hospital and Informer: And her Majesty's Officers may unloose such Merchant-Ship from the said Moorings, after Twenty-four Hours Notice to remove. *Ib.*

3 Geo. c. 13.
None to Pilot Ships up the Thames or Medway, but the Pilots of Trinity-House.

If any Person, after the first of August 1717, shall take upon him to Conduct or Pilot any Ship or Vessel from Dover, Deal, or the Isle of Thanet, to any Places in the Rivers Thames or Medway, before he shall be examined by the Master and Wardens of Trinity House, and approved and admitted into the said Society, at a Court of Loadmanage, he shall forfeit for the first Offence Ten Pounds, for the second Twenty, and for every other Offence forty Pounds, to be recovered by any Person in the Court of Admiralty for the Cinque-Ports, if the Offender reside there, or else in the Courts at Westminster, one Moiety to go to the Informer, and the other to the said Society of Trinity-House, to be distributed amongst the superannuated Pilots, and the Widows of Pilots of the

the said Society, as the Master and Wardens shall think fit, and as hath been formerly practised. 3 Geo. c. 13.

Provided that this Act shall not extend to hinder the But Owners Master or Mate of any Ship or Vessel, or part Owner, may Pilot residing at *Dover, Deal*, or the Isle of *Thanet*, from Pi- their own loring his own Ship from thence up the said Rivers; nor Ships, subject any Person to the Penalties aforesaid (though not of the said Society) who shall be hired by any Person to Pilot his Ship from the Places aforesaid, if no Pilot of And others, the said Society shall be ready within an Hour after where no Pi- such Ship shall arrive, to Pilot the same. *lb.* lots are ready.

Provided that all Masters of Merchant-Ships may choose any Pilot out of the said Society they think fit; and no Person shall continue of the said Society, who shall not Pilot some Ship at least twice in one Year, to and from the said Places, unless hindred by Sickness. *lb.*

And no greater, or other Prices, shall be taken by any Pilots Wages: Pilot of the said Society, for Piloting a Ship from *Dover, Deal*, or the Isle of *Thanet*, to any Places on the Rivers *Thames* or *Medway*, than these hereafter mentioned, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Forevery Ship drawing Seven Foot Water	3	10	0
Eight Foot	4	00	0
Nine Foot	4	10	0
Ten Foot	5	00	0
Eleven Foot	5	10	0
Twelve Foot	6	00	0
Thirteen Foot	6	10	0
Fourteen Foot	7	00	0
Fifteen Foot	7	10	0
Sixteen Foot	8	00	0

And for every Ship drawing Seventeen Foot 8 10 0
and no Allowance made for odd Inches. *lb.*

And if any Pilot shall negligently or carelessly lose a Pilot disabled Ship under his Care, he shall, after Conviction thereof, who loses a be disabled to act as a Pilot; and the Number of Pilots Ship. shall not be less than One hundred and twenty, whose Number of Names, Ages and Dwellings, shall, every 25th of *March*, them. be affixed in some publick Place of the Custom-Houses of Lists of them. *London* and *Dover*, to which all Persons may resort; and the Master and Wardens of the Society shall forfeit Ten Pounds on neglect of returning such List of Pilots, to be recovered in the Cinque Ports, by any Person who shall sue for the same. *lb.*

After

Salvage determined.

After the 29th of September 1717, the Lord Warden of the Cinque-Ports for the Time being, shall by an Instrument under his Hand and Seal, appoint three or more substantial Persons in each of the Cinque-Ports, two ancient Towns, and their Members to adjust all Differences relating to Salvage, where any shall arise between the Master of any Vessel (who has been driven from his Anchors and Cables by Strefs of Weather) and the Persons bringing such Cables and Anchors on Shoar. And if any Ship shall be forced from her Cables and Anchors by Strefs of Weather, and leave the same in any Road within the Jurisdiction of the Cinque-Ports, the Salvage shall be determined within the Space of twelve Hours, by any one or more of the Persons so appointed by the Lord Warden. *Ib.*

Saving for those who assist Ships in Distress.

Provided that this Act shall not extend to hinder any Person from assisting any Ship in Distress, or subject such Person to the Penalties of this Act. And the Master and two Wardens of the Society, who shall be appointed to examine into the Skill and Ability of any Person to be admitted a Pilot into the said Society, shall take the following Oath, to be administered by the Register of the said Court of Load-Manage, or his Deputy, viz.

Oath of the Master and Wardens.

I A. B. do swear, That I will impartially examine and enquire into the Capacity and Skill of in the Art of Pilotage over the Flats, and round the Long Sand Head, and the Coasts of Flanders and Holland, and will make true and speedy Return thereof to the Lord Warden of the Cinque-Ports for the Time being, or his Deputy, without Favour, Affection, Fee, or Reward.

The ancient Rights of Trinity-House saved.

Provided also, That this Act shall not extend to abridge, prejudice, or impeach any Grants, Liberties or Privileges heretofore granted to the Corporation of the Trinity-House of Depisford-Strond, but they shall enjoy the same as fully as if this Act had not been made. *Ib.*

This Act to be deemed a publick Act. *Ib.*

4 Geo. c. 12. Felony to destroy a Ship.

If the Owner, Captain, Master, or other Officer or Mariner belonging to any Ship, shall wilfully burn, cast away, or otherwise destroy the Ship he owns or belongs to, or procure the same to be done to the Prejudice of any Person who shall underwrite any Policy of Assurance, or of any Merchant who shall have Goods loaded thereon, he shall suffer Death. Stat. 4 Geo. c. 12.

Whereas an Act for encouraging the Importation of 8 Geo. c. 12. Naval Stores from the Plantations, was made the 3 Preamble. & 4 Anne, and continued by another Act of 12 Anne, for the Term of Eleven Years, and from thence to the End of the next Session of Parliament; and in the last mentioned Act, Encouragement was given for the Importation of Naval Stores from Scotland; and upon the Encouragement given by the said Acts, great Quantities of Naval Stores have been imported. And it is probable, if further Encouragement was given, that the Owners of large Tracts of Land in Scotland, lying near the Sea, and upon Navigable Rivers, would sow the same with Hemp, it is hereby enacted, That the Premium of six Pounds given by the said Acts for every Tun of Hemp, shall be continued from the Expiration of the said Act of 12 A. for the Term of sixteen Years, and from thence to the End of the next Sessions of Parliament. And all such Hemp lawfully imported after the 24th of June 1722, shall be exempted from all Duties whatsoever.

Premium of
6 l. per Ton
for Hemp
continued.
And Duties
taken off.

And all Persons who within the Term of Twenty-one Years, to commence from the 24th of June 1722, shall import directly from the British Plantations, in Ships lawfully Navigated, any Sort of Wood, Plank, or Timber whatsoever, wrought or unwrought; or any of the Goods called Lumber, viz. Barrel-boards, Clap-boards, Pipe-boards, Bow-staves, Ebony Wood, Headings for Pipes, Hoops, Oars, Oak-Plank, and Wainscot, &c. (see the Act) being of the Growth of the said Plantations (except Masts and Yards, for which Premiums are given by former Acts) may import the same free from all Duties.

Timber, &c.
imported
from the
Plantations
Duty free for
21 Years.

The Commissioners of the Navy to have the Refusal of Hemp imported.

And it is enacted, That no Certificate shall be made out by any Officer of the Customs, for any Tar imported, nor Bills given by the Commissioners of the Navy for Payment of the Premium given by former Acts, on the Importation of any Tar from the Plantations, unless the Certificate of the Governor, &c. in the Plantations do express, that it appeared to them by the Oath of the Owner of the Tar, that the same was made from green Trees, prepared in the following Manner, viz. That when such Trees were fit to Bark, the Bark was stripped eight Foot from the Root, a Slip of the Bark, of about four Inches in Breadth, having been left on one Side of each Tree, and that each Tree, after having been so barked,

No Certifi-
cate for a
Premium for
Tar, unless
rightly made.

Pain of cutting down White Pine-Trees in the Plantations.

barked, had stood one Year at least, was not before cut down for the making of Tar.

And whereas the Laws already made for Preservation of white Pine-Trees in the Plantations of *New Hampshire, Massachusetts Bay, &c.* for the Masting the Royal Navy, have been insufficient. And forasmuch as there are great Numbers of White Pine-Trees, fit for Masting the Royal-Navy in his Majesty's Plantation of *Nova Scotia*, It is hereby enacted, That after the 21st of December 1722, No Person within any of the said Plantations, shall cut, fell, or destroy any White Pine-Trees, not growing within any Township, or the Bounds thereof, without his Majesty's Licence, on Pain of forfeiting for every White Pine-Tree twelve Inches Diameter, and under, at three Foot from the Earth, Five Pounds for every such Tree, from twelve Inches to eighteen Inches Diameter, Ten Pounds, from eighteen Inches to twenty-four Inches Diameter Twenty Pounds, and for every Tree, from twenty-four Inches Diameter and upwards, Fifty Pounds, to be sued for in six Months, before the Judge of the Admiralty of the Plantation where such Pine-Tree is felled. The Penalties to be equally divided between the Crown and the Informer; and the Proof that such Tree did not stand within the Bounds of any Township, to lie on the Offender: And in case of Refusal of the Offender, to pay the Penalty, the same shall be levied by the Warrant of the Judge, by Distress and Sale, and for want of a Distress, the Offender shall by like Warrant be committed to Prison, not exceeding Twelve Months, or less than three, or until he shall pay the Penalty, and find Surety for his good Behaviour for three Years from his Conviction: And all such White Pine-Trees, Masts and Logs, as shall be found felled without Licence, shall be forfeited to the Crown.

Former Act And so much of the Act of the 9th A. for the Preservation of Pine-Trees, which relates to the cutting, felling, and destroying the same, and the Penalties incurred Trees repeal-thereby shall stand repealed.

ed. The several Allowances or Sums of Money hereafter mentioned, shall be paid to all Persons who shall export the following Manufactures, viz.

Premiums on Exportation For all Ribbons and Stuffs made of Silk only in Great-Britain, and exported, three Shillings for every Pound of British Ma-Weight *Aver du pois*. 8 Geo. c. 15.

Manufactures. For all Silks and Ribbons made of Silk, mixed with Gold or Silver, four Shillings.

For

For all Silk-Stockings, Silk-Gloves, Silk-Fringes, Silk-Laces, Stitching or Sewing-Silk, One Shilling and Three-pence.

For Stuffs of Silk, or Grogram Yarn, Eight-pence per Pound

For Stuffs made of Silk, mixed with Inle or Cotton, One Shilling per Pound.

And for all Stuffs made of Silk and Worsted, and exported, Six-pence for every Pound *Averdupois*.

Which said Allowances and Sums, shall be paid by the Customer or Collector of the Customs, with the Privy of the Comptroller of the Port from whence the Goods shall be exported, on a Debenture made by the Customer or Collector, according to the Entry of the Goods, attested by the Searcher, and Oath made by the Exporter, that the said Goods are of *British* Manufacture, and Security given, that they shall not be reloaded. No Allowance shall be made for such Manufactures as shall be mixed with Gold and Silver only on the Edges.

Provided, That if any Duties now payable on the Importation of foreign Thrown or Raw Silk shall cease, then so much of the Allowances to be made on the Exportation of the Silks and Manufactures aforesaid, shall be abated, as shall bear Proportion to the Duties so ceasing.

And after the 25th of *March* 1722, all Duties payable on Exportation of any Goods and Merchandises, of the Product or Manufacture of *Great-Britain* shall cease, except the Duties on Goods hereafter mentioned, *viz.*

Allom, Lead, Lead Ore, Tin, Leather tanned, Copperas, Coals, Wooll-cards, white Woollen Cloths, *Lapis Calaminaris*, Skins of all Sorts, Glew, Coney-Hair or Wooll, Hares-Wooll, Hair of all Sorts, Horses, and Licharge of Lead.

And after the 25th of *March* 1722, it shall be lawful to import into this Kingdom, the Drugs and Goods used for Dying, hereafter enumerated, *viz.*

Agarick, *Annotto*, *Antimonium Crudum*, *Aquafortis*, *Argoill*, *Arsenick*, *Bay-berries*, *Brazil-Wood*, *Brazeletto-Wood*, *Cochineal*, *Cream of Tartar*, *Fustick*, *Galls*, *Gum-Arabick*, or *Gum Seneca*, *Indico* of all Sorts, *Ising-glass*, *Litmus*, *Logwood*, *Madder* of all Sorts, *Madder-roots*, *Nicaragua-Wood*, *Orchal*, *Orchelia*, *Pomegranate-Peels*, *Redwood*, *Safflower*, *Sal-Armoniack*, *Sal-Gem*, *Sapan-Wood*, *red Saunders*, *Shoemack*, *Stricklack*, *Turnsole*, *Valonia*, and *Verdegrease*, without paying any Custom or Duty

Duties on Dying Drugs imported, to cease.

what.

whatever for the same, so as due Entry be made thereof in the Custom-House of the Port, and the same to be imported in Ships navigated according to the Navigation Act.

Beaver Skins.

Duties on Beaver Skins imported after the 25th of *March* 1722, shall be computed and paid, as if valued in the Book of Rates, at Two Shillings and Six Pence per Skin, according to which Value there shall be paid for every Beaver Skin imported, Six pence, and no more.

Drawbacks on them.

Provided, that after the 25th of *March* 1722, upon the Exportation of any Beaver Skins, for which the said Duties shall have been payed and secured, there shall be allowed a Drawback of a Moiety of the respective Duties.

Duties on Pepper reduced to Four Pence a Pound.

And after the 25th of *March* 1722, all the Duties upon Pepper for Home Consumption, shall be reduced to Four Pence per Pound, except the half Subsidy of a Half-penny per Pound, payable on the Importation thereof.

Duties on Mace, Cloves, and Nutmegs reduced.

And after the 25th of *March* 1722, the Duties upon Mace, Cloves, and Nutmegs imported, shall be computed and paid, as if valued in the Book of Rates, at the Values following, *Viz.* the Pound of Mace Six Shillings, Cloves Four Shillings, and Nutmegs Three Shillings, according to which respective Values there shall be paid for every Pound of Mace only Three Shillings, for every Pound of Cloves Two Shillings, and for every Pound of Nutmegs One Shilling and Six-pence, and no more.

Provided, That upon Exportation of any of the said Mace, Cloves, and Nutmegs, there shall be allowed certain Drawbacks as shall bear Proportion to the Sums charged by this Act, as the former Drawbacks allowable on Mace, Cloves, and Nutmegs, exported respectively did bear to the Duties thereupon, before the making this Act.

Beaver Skins and Furs to be brought directly from the Plantations.

And all Beaver Skins, and other Furs of the British Plantations, shall, after the 25th of *March*, 1722, be imported directly from thence into *Great Britain*, and laid on Shore there, and not elsewhere, under the Pains contain'd in the Act of Navigation, in relation to Sugars, Tobacco, and other enumerated Goods, of the Growth of the Plantations.

Treason.

Treason.

WHEREAS divers Opinions have been, what *25 Ed. 3. c. 22* Cases shall amount to High-Treason, the King, at the Request of the Lords and Commons, declares, That when a Man doth compass or imagine the Compassing Death of our Lord the King, or of our Lady the Queen, the King's or of their eldest Son and Heir: Or if a Man do violate Death, &c. the King's Companion, or the King's eldest Daughter, Or violating unmarried, or the Wife of the King's eldest Son and Heir: his Bed. Or if he levy War against the King in his Realm, or be Levying adherent to the King's Enemies in his Realm, giving War, &c. them Aid and Comfort in the Realm or elsewhere, and thereof be provably attainted of open Deed, by People of their Condition. And if a Man counterfeit the King's Debasing the Great or Privy Seal, or his Money, or bring false Money Coin, &c. into the Realm, like to the Money of *England*, to make Payment therewith, in Deceit of the King and his People: And if a Man kill the Chancellor, Treasurer, Killing a or any of the King's Justices of the one Bench or the Judge, &c. other, Justices in Eyre of Assize, or any other Justices assigned to hear and determine, being in their Places, doing their Offices, the Cases aforesaid ought to be adjudged Treason: And if any other Case happen before the Justices, supposed to be Treason, they shall not proceed to Judgment, 'till it be declared by the King and Parliament, whether it ought to be adjudged Treason or Felony. *25 Ed. 3. Stat. 5. cap. 2.*

It was enacted to be High-Treason to wish or desire, by *26 H. 8. c. 13.* Words or Writing, or to imagine, &c. the Death of the King, Queen, or their Heir apparent; or to publish, That the King was an Heretick, Schismatick, Infidel, or Usurper, or to detain his Forts, Ships, or Munitions of War. *26 Hen. 8. cap. 13.*

The Privilege of Sanctuary taken away from Traytors.

And if any Subject shall commit Treasons out of the Treasons Realm, they shall be enquired of by the Oaths of Twelve committed Men, upon good and probable Evidence, in such Shire as out of the the King by his Commission shall appoint in such Man- Realm, where as Treasons within this Realm have used to be enquired tried.

And all Process of Outlawry against any Offenders in Treason residing out of this Realm, shall be as effectual as if such Offender had been Resident within the Realm at the Time of the Process awarded, and Outlawry pronounced. *16.*

And

Estates of In-
heritance
forfeited.

And every Offender convicted of High-Treason, shall forfeit to the Crown all such Lands, Tenements, and Hereditaments, in which any such Offender shall have any Estate of Inheritance in Use or Possession within the King's Dominions, at the Time of the Treason committed, or after. *Ib.*

N. B. *All the particular Treasons, made Treasons by this Act, are expired or repealed.*

28 H. 8. c. 15.
Treasons
committed at
Sea.

This Statute relates chiefly to Piracy, but empower the King also to grant Commissions for the Trial of Treasons committed at Sea. *Which see under the Title Admiralty.*

35 H. 8. c. 2.
Treasons
committed
out of the
Realm.

All Treasons, and Misprisions of Treasons, committed out of the King's Dominions, may be determined by the Justices of the King's Bench, by lawful Men of the same Shire where the said Bench shall sit, or before such Commissioners, and in such Shire as shall be assigned by the King's Commission, by good and lawful Men of the same Shire. 35 H. 8. c. 2.

1 Ed. 6. c. 12.
Two Wit-
nesses neces-
sary to con-
vict a Person
of Treason.

No Person shall be indicted, condemned, or convicted of any Treason, Petit-Treason, or Misprision of Treason, unless such Offender be accused by two sufficient and lawful Witnesses, or shall willingly, without Violence, confess the same. Stat. 1 Ed. 6. c. 12.

5 & 6 Ed. 6.
c. 11.

Persons out-
lawed to take
their Trial.

The Clause in the 26 H. 8. c. 13. for the Trial and Attainder of Persons committing Treasons out of this Realm, is confirmed. Stat. 5 & 6 Ed. 6. c. 11.

Provided, That if any Offender who is outlawed, shall within one Year after the Outlawry pronounced, or Judgment given thereupon yield himself to the Chief Justice of England, to traverse the Indictment or Appeal, he shall be admitted thereto. *Ib.*

Estates of In-
heritance
forfeited.

And every Offender convicted of High-Treason, shall forfeit all such Lands, Tenements and Hereditaments wherein he shall have any Estate of Inheritance in his own Right, in Use or Possession within the King's Dominions. *Ib.*

Misprision of
Treason.

Provided that Concealment or keeping secret of any High-Treason, be deemed only Misprision of Treason. *Ib.*

Two Witnes-
ses to be pro-
duced at the
Trial.

Provided that no Person shall be indicted, arraigned, condemned, convicted, or attainted of High-Treason, unless he be accused thereof by two lawful Accusers, which at the Time of the Arriagnment of the Party accused, if they be Living, shall be brought in Person before the Party so accused, and avow and maintain the Treasons laid in the Indictment, unless the Offender shall without Violence confess the same. *Ib.*

provided

Provided that the Wife of any Person attainted of Wife of a Treason shall not be received to demand Dower in the Traytor loses Lands, Tenements, or Hereditaments of her Husband, her Dower, while such Attainder is in Force. *Ib.*

No Act, Deed or Offence, shall be deemed or adjudged 1 *Mar. c. 1.* High-Treason, Petit-Treason, or Misprision of Treason, All Treasons but only such as are declared and expressed to be so by reduced to the 25 *Ed. 3.* concerning Treasons. *Stat. 1 Mar. Sess. 2. the 25 Ed. 3. c. 6.*

Counterfeiting Foreign Coin current in this Realm, 1 *Mar. c. 6.* made Treason. Which see under the Head of Money and Counterfeiting Coin.
Plate.

And if any Person shall falsly forge or counterfeit the Sign Manual, Sign Manual, Privy Sigmet, or Privy Seal, every such Offence shall be adjudged High-Treason.

All Trials for High-Treason shall be had and used only 1 & 2 *Phil.* according to the due Order and Course of the Common & *Mar. c. 10.* Laws of this Realm, and not otherwise. 1 & 2 *Phil.*
& *Mar. c. 10*

Provided that the keeping secret, or concealing of Misprision of High-Treason, be deemed only Misprision of Treason. Treason.
Ib.

Provided that every Peer shall be tried by the High-Peers. Steward and his Peers, as in other Cases of Treason. *Ib.*

Provided that in all Cases of High-Treason concern Trial, ing the Coin, or for counterfeiting the Privy Seal, Great Seal, or Sign Manual, such Manner of Trial only be observed, as heretofore hath been used by the Common Law.

By this Act it was made High-Treason to affirm, That any other but the King and Queen, and the Heirs of her Body, ought to be King and Queen.

The importing counterfeit foreign Coin, made current Importing here, to the Intent to utter or make Payment of the base Money, same within this Realm, is made High-Treason, and Treason. the Offenders may be indicted, convicted, and attainted by such Evidence, and in such Manner as has been used within this Realm at any Time before the first Year of Edward VI.

The maintaining the Pope's Authority, the third Of. 1 *Eliz. c. 1.* fence is made High-Treason.

This Act is of the same Purport with the former. 5 *Eliz. c. 1.* Which see under the Head of Papists and Popish Recufants. Papists.

This Act makes the debasing the Coin High-Treason. 5 *Eliz. c. 11.* Which see under the Head of Money and Plate. Coin.

By this Act, the bringing in or executing the Pope's 13 *Eliz. c. 2.* Bulls is made High-Treason. Which see under the Head Papists.
of Papists and Popish Recufants.

- 41 *Eliz. c. 3.* Counterfeiting Foreign Coin, not current, made Misprision of Treason. *Which see under the Head of Money and Plate.*
- 18 *Eliz. c. 1.* Debasing our own, or foreign Coin, made current Coin. here, High-Treason. *See Money and Plate.*
- 23 *Eliz. c. 1.* The absolving the Queen's Subjects from their Allegiance, and withdrawing them from the Established Church, is Treason. *See Papists and Popish Recusants.*
- 27 *Eliz. c. 2.* Jesuits and Popish Priests prohibited coming into this Realm on Pain of High-Treason. *See Papists, &c.*
- 3 *Jac. 1. c. 4.* The withdrawing any of the King's Subjects from their Obedience, or reconciling them to the See of Rome, High-Treason.
- 7 *W. 3. c. 3.* After the 25th of *March* 1696, every Person accused and indicted of High-Treason, whereby any Corruption of Blood may be, or for Misprision of such Treason, shall have a Copy of the whole Indictment, but not the Names of the Witnesses delivered to him, five Days at least before his Trial (to enable him to advise with Counsel) his Attorney or Agent requiring the same, and paying the Officer his Fees, not exceeding 5 s. for the Copy of every such Indictment.

And Council
and Witnesses
sworn.

And such Person shall be admitted to make his Defence by Council, and make any Proof for his Defence, by lawful Witnesses, upon Oath: And if he desire Council, the Court before whom such Prisoner is to be tried, or some Judge of that Court is hereby required, upon his Request, to assign him such Council, not exceeding two, as he shall desire, to whom such Council shall have free Access at all seasonable Times.

Two Witnesses to the same Species of Treason.

And no Person shall be indicted, tried, or attainted of High-Treason, whereby any Corruption of Blood may happen, or of Misprision of such Treason, but by the Oaths of two lawful Witnesses, both of them to the same Overt-Act, or one of them to one, and the other of them to another Overt-Act of the same Treason, unless the Prisoner willingly, in open Court, confess the same, stand mute, or refuse to plead, or in Case of High-Treason, challenge above Thirty-five of the Jury.

Traytor outlawed, to have the Benefit of this Act.

Provided that any Person indicted as aforesaid, of any such Treason, or Misprision of Treason, may be outlawed, and thereby attainted thereof: And in Case of the High-Treasons aforesaid, where by Law the Party outlawed may come in, and be tried, he shall upon such Trial have the Benefit of this Act.

And if two distinct Treasons shall be laid in one Indictment, one Witness to one of the said Treasons, and another Witness to another of the said Treasons. These shall

shall not be deemed two Witnesses to the same Treason within the Meaning of this Act.

And from and after the said 25th of *March* 1696, no Prosecution Person shall be indicted, tried, or presented for such Treason as aforesaid, or for Misprision of such Treason done three Years after the said 25th of *March*, unless the Indictment be found by a Grand-Jury, within three Years after the Treason or Offence committed.

Provided that Persons designing, endeavouring, or Assassination, attempting any Assassination on the Body of the King, by Poison, or otherwise, may be prosecuted at any Time, notwithstanding the aforesaid Limitation.

And all Persons who shall be accused, indicted, and tried for such Treason as aforesaid, or Misprision of such Treason, shall have Copies of the Pannel of the Jurors to try them, duly returned by the Sheriffs, and duly delivered unto them, two Days at least before the Trial: And the Prisoner shall have the like Process of the Court, where he shall be tried, to compel his Witnesses to appear, as is usually granted to compel Witnesses to appear against him.

And no Evidence shall be given of any Overt-Act not expressly laid in the Indictment.

Provided that no Indictment for the Offences aforesaid, shall be quashed on Motion for miswriting, misspelling, false or improper *Latin*, unless the Exception be made in the Court where such Trial shall be, by the Prisoner, or his Concil assigned, before any Evidence given in open Court upon such Indictment; nor shall any such miswriting, misspelling, false or improper *Latin*, after Conviction, be any Cause to stay or arrest Judgment. But a Judgment given upon such Indictment, may be reversed upon a Writ of Error, in the same Manner (and no other) as if this Act had not been made.

And whereas by Law, in Cases of Life, a Commoner shall be tried by a Jury of Twelve Freeholders, who must all agree before they can bring in a Verdict to acquit or condemn the Prisoner, but on the Trial of Peers or Peereffes, a major Vote is sufficient, It is enacted, That upon the Trial of any Peer or Peereffes, either for Treason, or Misprision of Treason, all the Peers who have a Right to sit and vote in Parliament, shall be duly summoned twenty Days at least before the Trial, to appear at such Trial, and every Peer so summoned, and appearing, shall vote in the Trial, first taking the Oaths of Allegiance and Supremacy required by 1 *W. & M.* and subscribing and repeating the Declaration against Transubstantiation enjoined by the 30 *Car. 2.*

This Act not
to extend to
Impeach-
ments.

Nor to Trea-
sons concern-
ing the Coin
or Seals.

8 & 9 W. 3.
c. 26. Coin.

9 W. 3. c. 1.
Treason in
returning
from France.

13 & 14 W.
3. c. 3. Pre-
tender at-
tainted.

Correspond-
ing with him
Treason.

1 Anne, c. 9.
Prisoners
Witnesses to
be sworn.

1 Anne, c. 17.
Opposing the
Succession,
High-Trea-
son.

Provided that this Act shall not extend to Impeach-
ments or other Proceedings in Parliament, nor to the
Treasons of counterfeiting the Coin, the Great Seal, Pri-
vy-Seal, Sign Manual or Privy Signet.

None to buy or sell any Coining Instruments, or to
make Grainings round the Edges of Money, or to gild or
plate the Coin, &c. on Pain of High-Treason. See
Money and Plate.

If any Subject who hath since the 11th of Decem-
ber 1688, gone into the French King's Dominions in Eu-
rope, without Licence from his Majesty, or Queen Mary,
or who during the War with France hath born Arms in
the Service of the French King; or who hath been in
Arms under the Command, or in the Service of the late
King James in Europe, shall after the 14th of Janua-
ry 1697, return into England, or any other the King's
Dominions, without Licence under the Privy-Seal, eve-
ry such Person shall be adjudged guilty of High-Treason.

And where any Offence against this Act shall be com-
mitted out of this Realm, the same may be tried in any
County of this Realm. 9 W. 3. c. 1.

An Act that the pretended Prince of Wales stand con-
victed and attainted of High-Treason. Stat. 13 & 14
W. 3. c. 3.

And if any Subject of the Crown of England, shall
within this Ream, or without, hold, entertain or keep
any Intelligence or Correspondence in Person, or by
Letters, Messages, or otherwise, with the said Pretended
Prince, or any Person employed by him, knowing such
Person to be so employed, or shall by Bill of Exchange,
or otherwise, remit any Sum of Money for the Use of
the said Pretender, knowing it to be for his Use, such
Offender shall be adjudged guilty of High-Treason. *Ib.*

And if any Offence against this Act be committed out
of the Realm, the same may be tried in any County in
England. *Ib.*

All Persons who shall appear as Witnesses on the Behalf
of a Prisoner, in any Trial for Treason or Felony, be-
fore they are admitted to give Evidence, shall take an
Oath to depose the Truth, the whole Truth, and nothing
but the Truth, as Witnesses for the Crown are by Law
obliged to do. Stat. 1 Anne, c. 9.

If any shall endeavour to hinder or deprive the Person
who shall be next in Succession to the Crown, from suc-
ceeding after the Death of her Majesty, that is to say,
such Issue of her Majesty's Body as shall be next in Suc-
cession, and in Default of Issue of her Majesty, the Prin-
cess Sophia, and after her Decease, the next in Succession,
according

according to the several Acts for Limitation of the Crown, and the same maliciously, advisedly, and directly shall attempt, by any Overt-Act or Deed; such Offenders, their Abettors, Procurers and Comforters, knowing the said Offence to be done, shall be adjudged guilty of High-Treason.

Persons transporting Arms, Ammunition or Naval Stores to *France*, during the War, to be adjudged guilty of High-Treason. *Stat. 3 & 4 A. c. 14.* from *France*

And if any Person, who since the 11th of *May*, in the first Year of the Queen hath gone to *France*, or born Arms in the Service of the *French* King, shall after the 25th of *March* 1725, return into her Majesty's Dominions without Licence under the Privy-Seal, he shall be adjudged guilty of High-Treason.

And every Person, who during the War shall embark in any Vessel, with an Intent to go to *France*, shall be adjudged guilty of High-Treason.

Offences against this Act to be tried in any County of *England*.

Any Person maintaining the Pretender's Title, or affirming, That the King or Queen, by Authority of Parliament, cannot limit the Succession of the Crown, adjudged guilty of High-Treason. See the Act under the Title Crown. cannot limit the Succession,

It was made High-Treason for any Officer or Soldier out of *England*, to have any Correspondence with the Enemy, without the Leave of the Commander in chief. *7 A. c. 4.*

After the first of *July* 1709, such Offences as are High-Treason, or Misprision of High-Treason in *England*, shall be adjudged High-Treason, and Misprision of High-Treason in *Scotland*. And no Offences shall be deemed High-Treason, or Misprision of High-Treason in *Scotland*, but such as are High-Treason, or Misprision in *England*. And her Majesty, her Heirs and Successors, may issue Commissions of Oyer and Terminer, under the Seal of *Great-Britain*, to such Persons in *Scotland* as she shall think fit, three Lords of Justiciary to be in the said Commission, one whereof to be of the *Quorum*, to enquire of, hear and determine such Treasons, in such Manner as is used in *England*.

Provided, that where any Commission of Oyer and Terminer shall issue, and is to be executed in the District of any Justice-General, or Person having a Right of Justiciary in Cases of High-Treason, and Misprision of High-Treason, such Justice-General, &c. or his Deputy, shall be one of the *Quorum* in such Commission.

And

And

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And

And

And the Justice Court, and other Courts having Power to judge in Cases of High-Treason, and Misprision of High-Treason in *Scotland*, are hereby required to enquire by the Oaths of Twelve Men of the Shire or Stewarty where the respective Courts shall sit, of all High-Treason, and Misprisions of High-Treason in the said Shires or Stewarty, and to hear and determine the said Offences, in such Manner as the Court of Queen's-Bench, or Justices of *Oyer* and *Terminer* in *England*, do by the Laws of *England*.

Certiorari for removing Indictments in *Scotland*.

And if any Person be indicted before Justices of *Oyer* and *Terminer*, or in the Circuit Courts, &c. in *Scotland*, then upon the Request of the Queen's Advocate-General to the Lord Chancellor, or Keeper of the Great-Seal of *Great Britain*, the said Lord Chancellor, &c. shall award a Writ of *Certiorari* under the Great-Seal, to the Justices of *Oyer* and *Terminer*, or the Justices of the Circuit-Courts, &c. commanding them to certify such Indictment into the Justice Court, which Court is required to proceed upon, hear and determine the same, as the Queen's-Bench does in *England*, upon Indictments certified into the said Court.

And all Persons convicted or attainted of High-Treason, or Misprision of Treason in *Scotland*, shall be subject to the same Pains and Forfeitures, and the same Corruption of Blood, as Persons convicted and attainted in *England*.

Treasons committed out of *Great-Britain*.

All Treasons, or Misprisions of Treason, which shall be committed by a Native of *Scotland*, on the High Sea, or in any Place out of the Realm of *Great-Britain*, shall be tried before such Commissioners of *Oyer* and *Terminer*, and in such Shire, Stewarty, or County of *Great-Britain*, as shall be assigned in the Queen's Commission, in like Manner as if the Offence had been committed in the same Shire where it shall be tried.

Torture abolished in *Scotland*.

And no Person accused of any Capital Offence in *Scotland*, shall, after the first of *July* 1709, suffer or be liable to any Torture, provided that this Act shall not extend to take away that Judgment which is given in *England* against Felons who refuse to plead.

Jurors to have Forty Shillings per Annum.

Provided that every Person may be returned a Juror man upon such Trials, who shall be seized in his own or his Wife's Right, of Lands and Tenements of an Estate of Inheritance, or for his Life, or the Life of some other Person within the County where the Trial shall be, or from whence the Jury comes, of Forty Shillings per Annum Sterling at least; and in Default thereof, or for any other lawful Cause, may be challenged.

And

And whereas the Crimes hereafter mentioned are Treason in *Scotland*, viz. Theft in Landed Men, Murder under Trust, wilful Fire-raising, firing Coal-Troughs, and Assassination. These shall only be deemed Capital Offences, and the Offenders be liable to such Pains as by the Laws of *Scotland* are to be inflicted on Capital Crimes, and the Offender tried in the same Manner as other Capital Crimes are by the Laws of *Scotland*.

If any Person shall kill any of the Lords of Session, Killing a Lord of Justiciary, sitting in Judgment, in the Exercise of their Office in *Scotland*, the Offender shall be adjudged guilty of High-Treason.

And if any Person counterfeit her Majesty's Seals, appointed by the Twenty-fourth Article of the Union to be used and continued in *Scotland*, it shall be adjudged High-Treason.

Provided, that after the Decease of the Pretender, and at the End of three Years after the immediate Succession to the Crown, upon the Demise of her Majesty, shall take Effect, no Attainder for Treason shall extend to the disinheriting of any Heir, or prejudice the Right of any Person, other than the Right of the Offender, during his natural Life.

And from and after the Decease of the Pretender, and at the End of three Years after the immediate Succession to the Crown, upon the Demise of her Majesty shall take Effect, when a Person is indicted for High-Treason, or Misprision of Treason, a List of the Witnesses who are to be produced at the Trial, and of the Jury, expressing the Names, Profession, and Place of Abode of the said Witnesses and Jurors, shall be given to the Prisoner at the same Time the Copy of the Indictment is delivered: *Viz.* Ten Days before the Trial, and in Presence of two credible Witnesses.

The Act of the 8 *W. 3. c. 26.* to prevent the debasing the Coin, is hereby made perpetual, and the Time for Prosecution of those who make coining Tools, or Grainings round the Edges of Money, is enlarged to six Months.

By this Act, the Lands, &c. of all Persons attainted of High-Treason between the 24th of *June*, 1715, and the 24th of *June*, 1718. and all their Goods, Chattels, Debts, and Securities for Money, are vested in his Majesty for the Use of the Publick.

An Act for the Attainder of *Henry Viscount Bullingbrook*, of High-Treason.

An Act for the Attainder of *James Duke of Ormond* of High-Treason.

Certain Facts made Treason in *Scotland*, reduced to Felony.

Scots Judge, Treason.

Counterfeit-ing Seals.

Lands not forfeited after the Pretender's Death.

List of the Jurors and Witnesses.

7 *A. c. 25.* Coin.1 *Geo. c. 50.* Forfeited Estates.1 *Geo. c. 16.* Bullingbrook.1 *Geo. c. 17.* Ormond.

1 Geo. c. 32. An Act to attain *John Earl of Mar, William Murray, Mar, &c.* at- Esq; commonly called Marquis of *Tullibardin*, *James* tainted. Earl of *Linlithgow*, and *James Drummond*, Esq; commonly called Lord *Drummond*, of High-Treason.

1 Geo. c. 33. All Persons concerned in the present Rebellion, may Trial. be tried before such Commissioners of *Oyer and Terminer*, and Goal Delivery, and in such County as his Majesty, by any Commission under the Great-Seal, shall appoint.

1 Geo. c. 42. An Act for the Attainder of *George Earl of Marischal*, E. *Marischal*, *William Earl of Seaforth*, *James Earl of Southesk*, *James* &c. Earl of *Pannure*, and others, of High-Treason.

1 Geo. c. 53. An Act for the Attainder of *Thomas Forster*, Jun. Esq; Foster, &c. and *William Mackintosh* Esq; commonly called *Brigadier Mackintosh* of High-Treason.

Geo. c. 29. The last Act for the King's most Gracious, General and Pardon. Free Pardon of all Treasons, &c.

R E A D I N G S.

Derivation of the Word. Treason, according to Sir *Edward Coke*, is derived from *Trahir*, to betray, and *Trahison* by Contraction, *Treason* is the betraying it self. The Latin Word used in Law, is *proditio a prodere*, and from thence cometh *proditorie*, which must of Necessity be used in every Indictment of Treason, and cannot be expressed by any other Word, Periphrasis, or Circumlocution. 3 *Inst.* 4.

Several Branches of Treason.

Treason is divided into High-Treason, *Alta proditio*, and Petit-Treason, *proditio parva*, and High-Treason the same Author divides into even Branches or Classes, which are all contained in the 25th of *Ed. 3. cap. 2.* 1. The Compassing or Imagining the Death of the King, Queen, or Prince. 2. The Killing the Chancellor, Treasurer, Justices of the one Bench or other, Justices in Eyre, Justices of Assize, Justices of Oyer and Terminer, &c. in their Places, doing their Offices. 3. The Violating the King's Consort, or Queen, the King's eldest Daughter unmarried, on the Prince's Wife. 4. The Levying War against the King. 5. The Adhering to the King's Enemies. 6. The Counterfeiting the Great-Seal, Privy-Seal, or the King's Coin. And 7. The Importing Counterfeit Money, like the King's Coin.

And first, As to the Offence of Compassing the King's Death, &c. Sir Edward Coke observes, That before and at the making this Statute, when *Voluntas reputabatur pro facto*, it was necessary however that the Intention should be manifested by some open Deed tending to the Execution of the Design; as where a young Fellow was arraigned, for that he would have stolen the Goods of his Master, and came to his Master's Bed, where he lay asleep, and attempted to cut his Throat, and thinking he had indeed cut it, he fled; whereupon the Master cried out, and the Neighbours apprehended the Offender, and all this Matter being found by Special Verdict, he was adjudged to be hanged; so that it was not a bare Compassing or Plotting the Death of a Man, either by Word or Writing, which made the Offence Capital, but the committing some such Overt-Act, tending to the Execution of his Compassing. But in those Days, in case of the King, if a Man had compassed or imagined the Death of the King, and had declared his Compassing or Imagination by Words or Writing, this had been High-Treason, and a sufficient Overture by the ancient Law. 3 Inst. 5.

And there must be a *Compassing*, Intent or Imagination to kill the King, to make the Offence Treason, for the Killing him *per Infortunium*, as Sir Walter Tyrrel killed William II. by the glancing of an Arrow in *New Forest*, is not Treason. 3 Inst. 6.

And tho' by the ancient Law, if a Madman had killed, or offered to kill the King, it was held to be Treason; yet by this Statute, by Force of the Words *Compass* or *Imagine*, he that is *non compos mentis*, and totally deprived of all Compassings and Imaginations, cannot commit High-Treason, but it must be an absolute Madness, and total Deprivation of Memory; and if one attainted of Treason become mad, he shall not be executed. *Ib.*

And whoever by Overt-Act shall express an Intention to Depose the King, or to Imprison him, or to get the King into his Power, shall be deemed guilty of Compassing his Death. *Ib.*

By

Whether Treason can be committed against a King out of Possession.

By the Word *Le Roy*, or the *King*, in the 25th *Ed. 3.* it is to be understood a King Regnant, and not a Nominal King, as King *Philip*. And according to Sir *Edward Coke*, it must be a King in the actual Possession of the Regal Power. But there are many Instances of Persons attainted of High-Treason, against Kings that were not in Possession of the Regal Power, and particularly Sir *Henry Vane* was attainted for keeping King *Charles II.* out of his Dominions, and from the Exercise of the Regal Power: Indeed, Sir *Edward Coke*, in the Edition of his 3d. *Institutes*, carries the Matter so far as to affirm, That if Treason be committed against a King *de facto & non de jure*, and afterwards the King *de jure* comes to the Crown, he shall punish the Treason committed against the King *de facto*; than which nothing can be more absurd, for if a King have a Right to a Kingdom, surely all his Subjects must be in the Right, who assist him in the recovering of it; and yet the giving him such Assistance, must be Treason against the King *de facto*, if any Thing can be Treason against him. 3 *Inst.* 7.

And in the Case of Sir *Henry Vane*, it was resolved, That tho' King *Charles II.* was *de facto* kept out of the Exercise of the Kingly Office, by Traitors and Rebels, yet he was King both *de facto* and *de jure*, and all the Acts done to the keeping him out, were High-Treason.

Indeed, Sir *Edward Coke* does admit, that when the Crown descends to the right Heir, he is *Rex* before the Coronation, and before he sets his Foot in his own Dominions; for by the Law of *England*, says he, there is no *Interregnum*, and the Coronation is only the solemnizing his Accession, as it was resolved by all the Judges. *Hil 1 Jac. 1* in the Case of *Watson* and *Clark*. Seminary Priests. *Ib.*

If the Husband of a Queen Regent conspire her Death, it is Treason; so where the Queen Consort shall conspire the King's Death. *Ib.* 8.

And altho' the Compassing the Death of the Queen Consort be Treason by the 25th of *Ed. 3.*

yet

yet this must be intended during the Marriage, for it does not extend to a Queen Dowager. *Ib.*

So the eldest Son and Heir of the King (living) is intended by the said Act, tho' he was not the first Son; but if the Heir apparent to the Crown, be a collateral Heir apparent, he is not within the Statute, nor is a Conspiracy against such collateral Heir, Treason by this Act.

And altho' the Violating the Queen Consort be Treason, and her consenting to it is Treason in her, yet this does not extend to a Dowager Queen. Solikewise the Violating the Wife of the Prince, is only Treason during the Coverture.

And if any Man Levy War against our Lord the King.

A Compassing, or Conspiracy to levy War, with-
out a War be actually levied, according to Sir Ed-
ward Coke, is not Treason; but if many conspire
to levy War, and only some of them rise, 'tis
Treason in all: But it has been often resolved,
since Sir *Edward Coke* wrote, That a Conspiracy
to levy War is a sufficient Evidence or Overt-Act
to maintain an Indictment for Compassing the
King's Death, tho' 'tis true, where the Indictment
is for Levying War only, there Proof must be that
War was actually levied, to bring the Offender
within this Clause of the 25th of *Ed. 3.*

If any levy War to expel Foreigners, deliver Men out of Prison, to remove Evil Counsellors; or against any Statute, or to any other End, pretending Reformation of the State: This is a Levying War against the King, because they take upon them Royal Authority. *3 Inst. 9.*

But there is a Diversity between levying War, and committing a great Riot, Rout, or unlawful Assembly; for Instance, If three, four, or more, rise to burn or pull down an Enclosure which the Lord of the Manour has made, in a particular Place. This and the like, is but a Riot, Rout, or unlawful Assembly, and no Treason. But if they had risen with a Purpose to alter the Laws or Religion established, or to go from Town to Town, to throw down Enclosures, generally this is a levying War within the Purview of the 25th of

of *Ed. 3.* tho' there be no great Number of the Conspirators, because the Pretence is publick and general, and not private or particular. *Bradshaw's Case. Pas. 39 Eliz.* Resolved by all the Judges of *England.*

And if any with Force and Arms, hold and defend a Castle or Fort against the King, and his Power, this is a levying War against the King, within the Statute of the 25th of *Ed. 3.* And it was resolved by all the Judges of *England,* in the Reign of *Hen. 8.* That an Insurrection against the Statute of Labourers for raising their Wages, was a levying War against the King, because it was generally against the King's Law, and the Offenders took upon them the Reformation thereof, which Subjects by gathering a Power ought not to do. But as to the aiding and comforting those in Rebellion against the King; upon a special Verdict, where it was found that divers of the King's Subjects did minister and yield Victuals to Sir *John Oldcastle* and others, being in open War against the King, and that they were in Company with them in open War. This being found to be *pro timore mortis & quod recesserunt quam cito potuerunt,* it was adjudged to be no Treason, because it was done for fear of Death. *Et Actus non facit reum nisi mens sit rea.*

Adhering to
the King's
Enemies.

Or be adherent to the King's Enemies in his Realm, giving them Aid and Comfort in the Realm, or elsewhere.

The Delivery or Surrender of the King's Castles or Forts, by the King's Captain thereof, to the King's Enemy, within the Realm or without, for Reward, &c. is an adhering to the King's Enemy, and consequently Treason by the 25th of *Ed. 3. Inimicus,* in legal Understanding, is *Hostis.* The Subjects of the King, tho' they be in open War or Rebellion, yet are they not the King's Enemies, but Traitors. Enemies are those that are out of the King's Allegiance. And if a Subject join with a Foreign Enemy, and come into *England* with him, if he be taken Prisoner, he shall not be ransomed, or proceeded against as an Enemy, but as a Traitor to the King.

On

On the other Hand, an Enemy coming in open Hostility into *England*, and taken, shall be either executed by Martial Law, or ransomed, for he cannot be indicted of Treason, because he never was within the Protection or Leigeance of the King. *Ib.* 11.

And thereof be provably attainted of open Deed, by People of their Condition.

By the Word (*Provablement*) proveably, Sir Edward Coke holds, That a Person ought to be convicted on direct and manifest Proofs, and not upon conjectural Presumptions or Inferences, or Strains of Wit. The Word he observes is not probably, for then *commune argumentum* might have served; but the Word is [provably] be attainted.

Direct and
manifest
Proof re-
quired.

And this Word [Attaint] necessarily implies, That the Prisoner be proceeded against and attainted, according to the due Course and Proceedings of Law; and therefore, if a Man be killed in open War against the King, put to Death arbitrarily, or by Martial Law, and be not attainted of Treason according to the Common Law, he forfeits nothing; and for this Reason *Jack Cade*, who was killed in open Rebellion against the King, was attainted by Act of Parliament. *Ib.* 12.

Overt-Act. This Term, says the same great Lawyer, strengthens the former Exposition of the Word *Provablement*, that it must be proveably, or manifestly proved; as where several Persons conspire the Death of the King, and the Manner how, and thereupon provide Weapons, Powder, Poison, Accoutrements, send Letters, &c. for the Execution of the Conspiracy. But here by the Way, our Author makes the providing Arms, which is always done where there is an Intent to levy War, an Overt-Act of Compassing the King's Death; nay the sending Letters or Messages about it, to be a sufficient Overt-Act, which comes very near the later Opinions, that make a Conspiracy to levy War, a sufficient Overt-Act of Compassing the King's Death; and this Opinion seems the more reasonable, by what follows in the 3d Institutes, viz. *Also Preparations by some Overt-Act to depose the King*

Conspiracy
to levy War,
Evidence
of Compass-
sing the
King's Death.

King by Force and strong Hand, and to imprison him until he hath yielded to certain Demands; these are sufficient Overt-Acts to prove the Compassing and Imagination of the Death of the King, for this upon the Matter, is to make the King a Subject, and to despoil him of his Kingly Office of Royal Government, as was resolved in the Case of the Lord Cobham, Lord Grey, and Watson and Clerk, Seminary Priests.

However, from the Words thereof be attained by Overt-Deed, in the 25th of Ed. 3. Sir Edward Coke infers, That this relates to the several and distinct Treasons before expressed, viz. The Compassing of the Death of the King, &c. the Levying War against the King, and the Adhering to his Enemies, and therefore one of them cannot be made an Overt-Act of another: For Instance, A Conspiracy to levy War, being no Treason by this Act, therefore it is no Overt-Act, or manifest Proof of the Compassing the Death of the King within this Act, for this were to confound the several Classes of Treason above-mentioned. But as our Author has admitted, that a Design to Depose or Compel the King to submit to Terms, if made evident by Letters, or by the providing of Arms or Accoutrements, this being in order to depose him, is a Proof of compassing, &c. he does hereby admit that Preparations for War may be laid as Overt-Acts of Design against the King Life, and then surely, the actual leying of War may; and if the Writing a Letter to solicit Troops to coerce or restrain the King, may be made an Evidence of Compassing, &c. surely a Consultation concerning the assembling and bringing those Troops into the Field to such an Intent, may with equal Reason be laid as an Overt-Act of Compassing the King's Death, consequently a Conspiracy to levy War, may be an Overt-Act of Compassing the King's Death. But see *Kelyng* 14. 20. and 1 *Hawkins* 38.

Words may be
an Evidence
of Compass-
ing the
King's Death.

It has been much doubted by some, whether any Words can amount to High-Treason. But it was resolved at the Trial of the Regicides, that tho' a Man cannot be indicted of High-Trea-
son,

son for Words only; yet if he be indicted for Compassing the King's Death, there Words may be laid as an Overt-Act, to prove, That he compassed the Death of the King: *Kelynge* 13. And to support this Opinion, the Case of *Crochan* was cited, who was indicted of Treason, the 9th of *Car. 1.* for that he being the King's Subject, upon the ninth of *July*, in the seventh Year of the King, at *Lisbon*, used these Words, *I will Kill the King*, (*innuendo Dominum Carolum Regem Angliæ*) *If I may come to him.* And that in *August*, 9 *Car.* he came into *England* for the same Purpose. Two Merchants proved that he spake the Words on board a Ship in the River of *Lisbon*, and that he added these Words, *because he is an Heretick*; and for that his traiterous Intent, and the Imagination of his Heart was declared by these Words, it was held to be High-Treason by the Common Law, and within the exprefs Words of the Statute of the 25th of *Ed. 3. Cro. Car. 242.* See also *Cro. Car. 89. & 1 Lev. 57.*

And there can be no Reason, as Mr. *Hawkins* observes, why deliberate Words, which shew a direct Purpose against the King's Life, as, *If I meet the King I will kill him*, and the like, should not amount to an Overt-Act of Compassing or Imagining the King's Death; for since the Compassing or Imagining the King's Death is the Treason, and Words are the most natural Way of expressing the Imagination of the Heart, why should they not be good Evidence of it. Also there is no doubt but that he who by Command or Perswasion induces another to commit Treason, will himself be adjudged a Traytor, tho' there be nothing but his own Words to convict him. So that this Maxim, That no Words can amount to High-Treason at this Day, is not generally true.

As to the Argument, *That Compassing the King's Death by bare Words, cannot amount to Treason within the 25th of Ed. 3. because many late temporary Acts of Parliament have made it Treason, which would be needless, if it were so before.* To this Mr. Serjeant *Hawkins* answers, That the principal Design

Design of these Statutes was, to make it Treason to charge the King with *Heresy* or *Schism*, or *Usurpation*, or to affirm, *That it was lawful to take up Arms Against him*, which the *Romanists* were apt to be guilty of at the Reformation (as our Dissenters were afterwards) And as to such Words, he seems to Question whether they may be laid as Overt-Acts of High-Treason. To which some have replied with great Strength of Reason, That if a Conspiracy to depose the Prince, to invalidate his Authority, or to reform the Government in Church or State by private Men, be High-Treason, then all Means used to promote these Ends such as charging the King with embracing a false Religion, affirming the Lawfulness of taking up Arms against him, or that he is a Traitor, &c. may well be laid as Overt-Acts of such Treasons. Compassings or Imaginations, these having a natural Tendency to lessen the Prince's Authority, and to invite the People to take up Arms against him.

But a farther Objection, as Mr. *Hawkins* observes is made against Words being High-Treason at this Day, from the Statute of 1 Mar. Sess. 1. c. 1. wherein it is said, That the Queen calling to Remembrance that many, as well honourable Persons, as others of good Reputation, had then of late, (*for Words only, without other Opinion, Fact or Deed*) suffered a shameful Death, she was desirous that the Severity of such like extreme, dangerous, and painful Laws, should be abolished: Whereupon it was enacted, *That from henceforth no Act or Offence, being by Act of Parliament or Statute made Treason, Petit-Treason, or Misprision of Treason, by Word, Writing, Cyphering, Deeds, or otherwise whatsoever should be taken, had, deemed or adjudged to be High-Treason, Petit-Treason, or Misprision of Treason by the 25th of Ed. 3. Nor that any Pains of Death, Penalty or Forfeiture, in any ways ensue to any Offender, for the doing any Treason, &c. other than such by the said Statute of the 25th of Ed. 3. is ordained.*

To this the Serjeant answers, That the principal Purport of the Statute of 1 *Mar.* seems to be to make the 25th of *Ed. 3.* the only Standard of Treason, and to abolish all subsequent Statutes which made any Offences Treason that were not contained in the said Statute of the 25th of *Ed. 3.* but was never intended to invalidate the Force of the 25th of *Ed. 3.* or take away any natural Exposition thereof: For the first Part of the Preamble complains of such Laws as not only inflicted severe Punishments for the Crimes intended to be restrained by them, but were also penned in such a Manner, as to be often apt to entrap the wisest by bare Words; but this cannot be applicable to the 25th of *Ed. 3.* inasmuch as no Punishments can be thought extreme for the Crimes thereby restrained, and there can be no Danger from that Statute, of any Man's being punished for unwary or innocent Words, there being no Colour to say, That any Words, as such, are punished within that Statute, but only the wicked Imagination of the Heart, which is sometimes proved by the Evidence of Words. And it farther appears from the next Part of the Preamble of the said Statute of 1 *Mar.* that it has an Eye only to such Statutes as are above-mentioned, inasmuch as it complains of Persons having suffered shameful Deaths for Words only, without other Opinion, Faët, or Deed, which is very applicable to those many Statutes in the Time of *Hen. 8.* (*Viz.*) 26 *H. 8.* 13 & 35 *H. 8.* &c. which made bare Words High-Treason, many of which were so far from purporting a Design against the King's Life, that they were scarce otherwise Criminal, than as they were prohibited by those Statutes; but surely this can have no Relation to the 25th of *Ed. 3.* either in punishing a Man for such Imaginations of the Heart as are most perversely wicked; or in suffering those Imaginations of the Heart to be proved upon him from his own Mouth. Also it is farther remarkable, that the enacting Clause, restrains only such Offences as are made High-Treason by Statutes, subsequent to the 25th of *Ed. 3.* from being ad-

judged High-Treason by Words, Writing, Cyphering, &c. and seems to leave the Offences contained in the said Statute, to the same Construction which they had before. As to the Authority of Sir *Edward Coke*, in his third Institutes, it is the less to be regarded, because he was clearly of another Opinion when he was Chief Justice; and tho' in the latter Edition of the Lord Chief Justice *Hale's Pleas of the Crown* it is said, That Compassing by bare Words, is not an Overt-Act, &c. yet in the first Edition, published in the Year 1678, it is twice said, That it hath been adjudged, that Words are an Overt-Act. 1 *Hawk.* 41.

And after all the Outcry against convicting Offenders for Treasonable Words in the Reigns preceeding the Revolution, it has been the constant Practice ever since, where a Person by Treasonable Discourses has manifested a Design to Murder or Depose the King, to convict him upon such Evidence. And in the Case of *Lowick*, who was tried in 1696, the Lord Chief Justice *Holt* declared, That *express* Words were not necessary to convict a Man of High-Treason, but if from the Tenor of his Discourse, the Jury was satisfied he was engaged in a Design against the King's Life, this was sufficient to convict the Prisoner. *State Trials*, Vol. 4. 172.

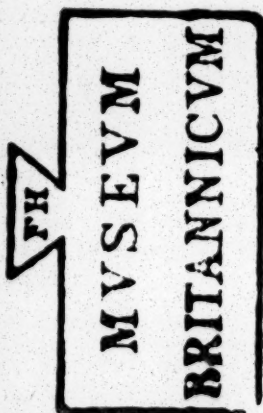
If any Subject go into the Service of a Foreign Prince, and swear Allegiance to him, yet does he still remain a Subject of *England*, and if he conspire against the King, he shall be adjudged a Traitor; for no Man can put off or remove his Allegiance to his natural Sovereign.

An Ambassador conspiring against the Prince's Life, in whose Country he resides, may be condemned and executed for it; but for other Crimes, he shall be sent Home, and punished there.

As to the Treasons of Counterfeiting the Coin, maintaining the Pope's Authority, &c. these have been spoken to under other Heads already.

See *Titles Money, Papists.*

Tre pas.



Trespafs.

IF any Person shall cut, or unlawfully take away any 43 Eliz: c. 7.
 Corn or Grain growing, or rob any Orchards or Pain of brea-
 Gardens, or break or cut any Hedge, Pales, Rails, king Hedges,
 or Fence, or dig or pull up, or take up any Fruit-Tree, cutting of
 or Trees, in any Orchard, Garden, or elsewhere, to the Corn grow-
 Intent to take and carry away the same, or shall cut or ing, &c.
 spoil any Woods or Underwoods, Poles or Trees stand-
 ing, (not being Felony) such Offenders, their Procurers
 or Receivers, knowing the same, being convicted by
 one Witness, before one Justice of Peace, Mayor, or
 other Head Officer, shall make such Satisfaction to the
 Party, and within such Time as such Justice or Head
 Officer shall appoint; and if such Offender shall not be
 thought able or sufficient to make Satisfaction for the
 Damages, or do not make Satisfaction as aforesaid, then
 the said Justice shall commit the Offender to the Con-
 stable, to be whipped, and for every future Offence, shall
 also receive the same Punishment of Whipping. 43 Eliz.
 cap. 7.

And if any Constable do refuse, by himself, or some
 other, to execute the said Punishment, he shall be com-
 mitted to the common Goal, until the said Offender be
 punished as aforesaid. *ib.*

Provided that no Justice of Peace do execute this Sta-
 tute for any Offences done to himself, unless he be asso-
 ciated with one or more Justices of Peace not concerned
 in the Matter. *ib.*

In Actions of Trespafs, *quare clausum fregit*, where the 21 Jac. 1.
 Defendant shall disclaim in his Plea, any Title or Claim c. 16.
 to the Land in which the Trespafs is supposed to be done, Involuntary
 and the Trespafs be by Negligence, or involuntary, the Trespafs, ten-
 Defendant shall be admitted to plead a Disclaimer, and der of A-
 that the Trespafs was by Negligence, or involuntary, mends may
 and a Tender or Offer of sufficient Amends before be pleaded
 Action brought, the Plaintiff shall be enforced to join in Bar.
 Issue upon some of these Pleas; and if it be found for the
 Defendant, or the Plaintiff be Nonsuit, the Plaintiff
 shall be barred of his Action. 21 Jac. 1. c. 16.

In all Actions of Trespafs, Assault and Battery, &c. 22 & 23 Car.
 where the Judge shall not certify on the Back of the Record, 2. c. 9.
 That a Battery was proved, or the Title of the Land was No more
 in Question. If the Jury find Damages under Forty Shil- Costs than
 lings, the Plaintiff shall recover, no more Costs than Damages.
 Damages; and if more Costs are awarded, the Judgment shall

shall be void, and the Defendant may bring an Action against the Plaintiff for a vexatious Suit, and shall recover Damages and Costs. 22 & 23 Car. 2. cap. 9.

4 & 5 W. & M. c. 23.
Inferi^r People Hunting Trespasses.

Inferior Tradesmen, Apprentices, and other dissolute Persons, neglecting their Trades to follow Hunting, Fishing, or other Game, if sued for a wilful Trespass, shall pay full Costs as well as Damages. 4 & 5 W. & M. cap. 23.

8 & 9 W. 3. c. 11.
Wilful Trespasses, Costs.

In an Action of Trespass, if it shall be certified by the Judge at the Trial, on the Back of the Record, That the Trespass was wilful and malicious, the Plaintiff shall recover not only his Damages, but full Costs. 8 & 9 W. 3. cap. 11.

READINGS.

Trespass defined.

Trespass is a Wrong supposed to be done with Force and Arms against a Man's Person, Servants, Goods, Lands, &c. and the Plaintiff in this Action shall recover Damages according to the Wrong done him. *Finch's Ley.* 198.

The several Kinds.

Trespasses against a Man's Person are of several Kinds, such as, 1st. Menacing or Threatning to hurt him. 2d. Assaulting or Setting upon a Man to beat him, by holding up a Weapon to strike, or thrusting or pushing at a Man, tho' he do not hit him. 3. Battery, when one Man actually beats another. 4th. Maiming one, so that he loses the Use of his Limbs, or is rendred less fit to serve himself or his Country. 5th. Imprisonment, or restraining a Man of his lawful Liberty, &c.

Local or Transitory.

And Trespasses are either Local, that is annexed to a certain Place, as cutting of Trees or Grass, digging in the Ground, &c. or Transitory, as the carrying away his Goods, beating a Man, his Children or Servants, spoiling his Writings, &c.

No Accessories in Trespasses or Treason.

And all Persons accessory to these Trespasses, either before or after, may be charged as Principals; as where one commands, perswades, or procures another to commit a Trespass, or participates of it after it is done, by sharing what is unlawfully gained by such Trespass, &c. for in the highest and lowest Offences, such as Treason and Trespass, properly speaking, there are no Accessories, but all are Principals. *Co. Inst.* 57.

Joint

Joint-tenants must join in an Action of Trespas done upon the Land they hold jointly.

One who has but a bare Possession of Land, may who may maintain this Action against him that has no Right. have this

A Man and his Wife may have this Action together, for the beating or imprisoning of his Wife, and if he loses her Company or Service by the beating, he may have the Action alone. 3 Co. 113. 5 Co. 108. 10 Co. 130.

If a Servant do a Trespas by the Master's Command, both of them may be sued; but if the Servant do more than he is commanded, the Master shall not be charged for what he never ordered, but the Servant only. Dyer 365.

Where the Writ of Trespas is returnable in the King's-Bench or Common-Pleas, the Words *Vi & Armis* must be in the Writ, for if it want those Words, the Writ shall abate, unless it be a Writ of Trespas upon the Case, and then those Words shall not be inserted, but in lieu thereof, it shall conclude with the Words *contra pacem, &c.* F. N. B. 86. 92.

And a Man may have one Writ of Trespas for several Trespases, as for breaking his Close, cutting his Trees, fishing in his Ponds, beating his Servants, and taking his Goods and Chattels, &c. The common Form of the Writ is as follows:

REX, &c. si A fecerit, &c. tunc pone per Vad' & *Salvos pleg. B. quod sit coram nobis in Octabis* Form of the Writ.
sci. Mich. ubicunque fuerimus tunc in Angl. And, if it
 be returnable in the Common-Pleas, then thus,
Coram Justic. nris. apud Westm. in Octab. sci. Mich.
Offens. quare Vi & Armis in ipsum A. apud N. Insult.
fecit & ipsum verberavit vulneravit & male tracta-
vit ita quod de vita ejus desperabatur & alia enormia
intulit ad grave dampnum ipsius A. & contra pacem
nostrum. &c. Ib.

Whether the Person be wounded or not, this must however be the Form of the Writ, and Executors may have a Writ of Trespas for Goods and Chattels taken in the Life of the Testator. *Ib.*

One may have an Action of Trespass for taking his Son and Heir, or his Daughter and Heir, and marrying him or her. *Ib.*

If a Man has Toll in a Fair, &c. and his Servants are disturbed in collecting the same, he may have his Action for the Assault of his Servants, and for the Loss of their Service, and the Disturbance given them, and for losing the Profit of his Toll, all in one Writ. *Ib.*

Trespass on
the Case.

As to Writs of Trespass upon the Case, they are as various as the Occasions of giving Offence may be. Of which I shall give some Instances. If a Sheriff have a Prisoner committed to him for Debt, and he suffer him to go at Liberty before the Debt is satisfied, this Writ lies against him. *F. N. B. 93.*

If a Man have Grounds which lie between me and the Sea, and he do not cleanse his Ditches and Sewers, in default whereof mine are furrounded with Water, or overflowed, I may have this Writ against him. *Ib.*

If a Man take upon him to make new Carts, Carriages, Beds, Furniture, or any other Thing, and takes Money beforehand to do it, if he neglect to do it, this Writ lies against him. *Ib.*

Again, if one sell Wine, Horses, &c. and warrant the Wine to be good, or the Horses to be sound, and the Wine is bad, or the Horses lame, &c. I may have this Writ; but if the Seller did not warrant them, it will not lie, the Buyer relies upon his own Taste and Eye-sight, and must take them at his Peril.

But if a Smith prick my Horse with a Nail, &c. I may have this Action without any Warrant. *F. N. B. 94.*

Also, if a Man play with another at Dice, and he hath false Dice, with which he plays, and gets the others Money, he who loses may have his Action of Trespass on the Case for this Deceit. *For the Form of this, and all other Writs of Trespass, see F. H. N. B. p. 86, &c.*

Hunting
Badger or
Fox.

Trespass, *Quare Vi & Armis Clausum fregit.*
The Defendant justified upon Report, That a Vermin, called a Badger was there, *ad damnum inhabitantium,*

inhabitantium, by reason whereof with his Hounds he hunted there, and found the Badger, and chased him 'till he earthed him in the Place where, and thereupon digged the Ground, and took the Badger and killed him, and that he afterwards stopped up the Earth again, *Que est eadem transgressio, &c.* and demanded Judgment; whereupon the Plaintiff demurred, and it was adjudged, That the Action well lay, for altho' the common Law warrants the hunting of such ravenous Beasts of Prey in another Man's Land, because the destroying such Creatures is profitable to the Publick, yet it requires it should be done in an ordinary and usual Manner, and therefore there being an ordinary Course, (*viz.* Hunting) to kill the Badger, the digging for him was unlawful. See 37 *Eliz. Nicholas's Case*. The same for a Fox. *Pas. 11 Jac.* in *B. R. Geush and Myn's Case. Cro. Jac. 321.*

Trespass of Assault and Battery, the Defendant No Excuse
pleaded, That he was amongst others, by Com- for a volun-
mand of the Lords of the Council, a trained Sol- tary Trespas.
dier in London, of the Band of Captain A. and
so was the Plaintiff, and that they were Skirmish-
ing with their Muskets, charged with Powder for
their Exercise *in re Militar.* against another Cap-
tain and his Band, and as they were so Skirmish-
ing, the Defendant, *Casualiter & per infortunium*
& contra voluntatem suam, in discharging his
Piece, did hurt and wound the Plaintiff, which
is the same Trespass *absque hoc*, that he was guilty
aliter sive alio modo, and upon Demurrer, Judg-
ment was given for the Plaintiff; for altho' it was
agreed, That if two Men at Tilts or Tournaments,
in the Presence of the King; or if two Masters of
Defence playing their Prizes, kill one another,
this is not Felony; yet in Trespass, which tends
only to give Damages according to the Hurt or Loss,
it is not so; and no Man shall be excused of Tre-
pass, except it may be judged utterly without his
Fault: But if the Defendant in the principal Case
had said, That the Plaintiff came cross his Piece
when it was discharging, or had set forth the Case
with the Circumstances, so as it had appeared to
K + the

the Court that it had been inevitable, and that the Defendant had committed no Negligence to give Occasion to the Hurt, then the Action would not have lain. *Pas. h. 14 Jac. in B. R. Weaver and Ward's Case. Hob. 134.*

Action for
Beating his
Servant.

If the Servant be beaten, the Master shall not have an Action of Trespas of Battery, if the Battery be not so great that by Reason thereof he loseth the Service of his Servant; but the Servant himself, for every little Battery, shall have an Action, and the Cause of the Difference is, That the Master has not any Damage by the personal Beating of his Servant, but by the Reason of a *per quod Servitium amissit*, so as the original Act is not the Cause of his Action, but the Consequence upon it (*viz.*) the Loss of his Service is the Cause of Action; for be the Battery great or little, if the Master doth not lose the Service of his Servant, the Action will not lie. See *Cook 4 Part. 113, in Robert Merry's Case.*

Execution
against one
Trespasser,
Bar to an
Action a-
gainst ano-
ther.

In Trover and Conversion of certain Goods, the Defendant pleaded, That the Plaintiff had brought the like Action against J. S. for the same Goods before this Action brought, in which Suit he prosecuted so far against J. S. that he had Judgment and Execution against J. S. and averred, That the Goods comprehended in both the Actions, were the same Goods. Upon which the Plaintiff demurred in Law, and in that Case it was adjudged against the Plaintiff, and a Difference was taken by the whole Court, where the Demand and Recovery is of a Thing certain, and where of a Thing which is uncertain; as if two be bound in 100 l. to J. S. jointly and severally, there a Recovery and Execution against one, is no Bar against the other; for Execution is not any Satisfaction of the 100 l. demanded, 4 H. 7. 22 E. 4. But where Trespas is done by two, which rests only in Damages, and the Plaintiff recovers against one of them, and hath Execution, the same is a good Bar against the other; and it was agreed, That the very Judgment is a sufficient Bar for *transit in rem judicatum*; and the Thing uncertain, is now by the Judgment

ment made certain, and so altered and changed into another Nature than it was at the first, and therefore he cannot now resort to demand the Incertainty again, for the first Judgment shall be a Bar to it. The same Law is of an Action of Battery brought by divers, and a Recovery against one of them in an Action afterwards brought of the same Battery; the first Recovery is a Bar, and so it was adjudged in *Hickman*, and Sir *John Poyne's Case* and his Servants, for a Battery. *Trin. 3 Jac. in B. R. Broom* and *Wootton's Case*, *Yelverton* 67, 68.

In Trespass *de uxore raptā & abducta cum bonis* Where the *vir*, brought in *London*, in the Common-Pleas, Action shall be laid. and the Trespass supposed to be in *Parochia de Be* *Bow*, in *Ward de Cheap*, the Words of the Writ were, *Et ea injuste detinet contra pacem & contra formam Statuti in hoc casu provisī, &c.* the Defendant pleaded not guilty. Upon the Evidence in *London*, at *Guild-Hall*, it appeared, That the Defendant had committed Adultery with the Woman in *Southwark*, where both Parties dwelt, and that the Woman afterwards, of her own Accord, went from her Husband to *Ratcliff* in *Middlesex*, and there remained a Day and a Night, and thither came the Defendant to her, and conveyed the Woman from *Ratcliff* to *Richmond* in *Surrey*; and if this would prove him guilty in *London* was the Doubt. The Lord *Dyer* would have had the Jury found a Special Verdict, but they found the Defendant guilty generally, and assessed 300 *l.* Damages; it was the Opinion of many, That the Action did not lie in *London*: But afterwards the Judgment was stayed, because the Original was returned in *B. R. Scil' coram nobis ubicunque*. See in what County the Action should be brought. *Cook 7. Part. Bullwer's Case. Mich. 9 Eliz. Dyer.* 257.

Six Carpenters came to a Tavern, and called Where a Man for a Quart of Wine, and drank it, and upon may be a Request made, they refused to pay for it; the Trespasser. Question was, Whether their denying to pay for tho' his first it, made their Entry *tortious ab initio*, and in this Entry was Case it was resolved, That when an Entry, Au-lawful. thority,

thority, or Licence is given by Law, and the Party doth amiss, that he shall be said a Trespasser *ab initio*. As if the Lord who distrains for Rent, or Damage Feasant, doth labour or kill the Distress. So if a Man entrench into a common Inn or Tavern, and carrieth away any Thing out of it; but when the Entry, Authority, or Licence is given by the Party, and there he doth amiss, there he shall be punished for his Misdoin, but shall not be a Trespasser *ab initio*. 2. Resolved, That not doing of a Thing cannot make the Party who hath Authority or Licence by the Law to be a Trespasser *ab initio*, because not doing is no Trespass. A Man distrains for Rent or Damage Feasant, the Lessee tenders the Rent or Amends, and requires his Cattel, and the other will not deliver them, this doth not make him to be a Trespasser *ab initio*, but Damages there shall be recovered only for the detaining of the Cattel, and not for the distraining of them; and therefore in the principal Case, it was adjudged, that for the not paying for the Wine, the Defendants were not Trespassers *ab initio*, but in such Case the Vintner might have an Action of Debt against them. 8 Cook 146, 147. *The Six Carpenters Case*.

Declaration
in Trespas
*Quare Vi &
Armis, &c.*
ill.

In Trespas the Plaintiff declared, *Quare Vi & Armis clausum fregit*, and after Verdict for the Plaintiff, Judgment was arrested, for *quare* is not positive but interrogatory, and much worse than *quod cum*. Vid. 1 Cro. 420. 2 Cro. 47. 2 Bulst. 214. Godb. 251. 2 Keb. 400. 1 Sid. 326. 3 Cro. 57. 1 Keb. 377. 2 Show. Case 17 180. 294. Con. 413. Hore ver. Chapman. 1 W & M. B. R. Salk. 636.

Trespas lies
for Fishing
in libera Piscaria, and
taking his
Fish.

Trespas *Vi & Armis*, for taking Fishes *ex libera piscaria sua*, upon not guilty pleaded, and Verdict for the Plaintiff, 'twas moved in arrest of Judgment by *Carthew*, that he that had *libera Piscaria*, could not maintain Trespas, and compared it to the Case of a Commoner, who could not bring Trespas for a Trespas done in the Common. That *libera Piscaria* was not like *libera Warren*, for he did allow, That he who had *libera Warren*, might bring Trespas against any one but the

Owner

Owner of the Soil, for Hunting in his free Warren. 2 Ro. Rep. 55. 11. because *libera Warrena* was granted by the King, who is Master of all Game: but *libera Piscaria* was only a Freedom of Fishing with others, and the same with *communis Piscaria*; and for this he cited 1 Inst. 122. and that such a Grantee had only a Liberty to take Fish, and no Property in them until taken; and so prayed that Judgment might be arrested.

Holt, C. J. cited and relied upon the Reg. 95. in Point where there is the same Writ, and likewise in F. N. B. 15. G. H. 43. E. 3. 11. 6. and said there were three Sorts of Fisheries. 1. *Separalis Piscaria*, and there, he who had the Fishery, was Owner of the Soil, and therefore 'tis a good Plea in an Action brought by him, That it is *liberum Tenementum* of another. 2dly, *Libera Piscaria*, which is where the Right of Fishing is granted to the Grantee, and such Grantee has a Property in the Fish, and may bring a Possessory Action for them, without making any Title. 3dly, *Communis Piscaria*, and this was to be resembled to the Case of other Common, and disallowed the Authority of 1 Inst. 122. Eyre Justice said, That he took 1 Inst. 122, to be Law, and that many Judgments and Precedents were founded upon that Case, and that *Libera ex vi termini*, did imply Common, which the Chief Justice and Dolben denied, in Defence of the Register, *Et nota dict' fuit per Carthew*, in this Case, That there were several Writs there against Law, particularly R. 105. Trespas *per Baron & Feme*, for assaulting the Wife, and taking the Goods of the Husband. *Smith ver. Kemp. Trin. 4 W & M. B. R. Salk. 637.*

In Trespas and Assault, &c. the Defendant pleaded, That he was riding a Horse in the King's Highway, and that his Horse being frightened, ran away with him, and that the Plaintiff and others, were called to go out of the Way, and did not, and the Horse ran upon the Plaintiff against his Will, &c. The Plaintiff demurred, and had Judgment

J. S. who hath free Warren, may bring Trespas against any but the Owner of the Soil, for Hunting there.

J. S. having *Libera Piscaria*, hath Property in the Fish.

Justification must confess the Trespas.

Judgment, not but if the Defendant had pleaded *Not Guilty*, this Matter might have acquitted him upon Evidence, but the Reason of their Judgment was, because the Defendant justified a Trespass, and doth not confess it; for if *A.* beats my Horse, by which he runs on another, *A.* is the Trespasser, and the Rider is not. And as to *Hob. 134. Mo. 864. Placito. 1192. 1 Brownl. Precedents 188*, they differ, for in them a Battery is confessed. *Gibbon ver. Pepper, Pas. 7 W. 3. B. R.*

Trespass by Lessee of a Copyhold for Life, for cutting down Trees by the Lord of the Manour, held maintainable in *B. R.* and affirmed in *Cam. Scacc.* but reversed by the Lords.

Trespass was brought by Lessee of a Copyholder for Life, for breaking his Close, and cutting down his Trees. The Defendant justified as Servant to the Earl of *Kent*, Lord of the Manour: Plaintiff replied, That the Copyholder was Tenant for Life, his House in decay, and that the Trees growing on the Land were not sufficient to repair, &c. Upon Demurrer, *Holt, C. J.* held, That 3 *Cro. 5.* was not Law, and that the Fruit and the Acorns belonged to the Tenant; and he held, That if *H.* has all the Thorns in such a Place for Estovers, he may maintain Trespass against any one that cuts them, even his Grantor, and in such Case need not aver that he burnt them. But where *H.* hath only Estovers to be taken in such a Wood or Place, and the Grantor cuts the whole, the Grantee may maintain Case against the Grantor, but not Trespass, *Vi & Armis*, and the whole Court held the Action was well maintained by the Possessory Right which the Plaintiff had.

The Judgment was affirmed in *Cam. Scacc.* but reversed in the House of Lords; for the Tenant could not cut the Trees, and if the Lord could not, they must rot on the Land, for then no Body could. *Ashmead versus Ranger. W. 3. B. R. Salk. 638.*

Trespass laid in a former King's Time, *contra pacem* of the present, ill on Demurrer, but cured by Verdict.

Trespass *quare Vi & Armis primo die Febr. An. Dom. 1701. Clausum suum fregit*, and concludes, *contra pacem Domine Anne nunc Regina, &c.* The Defendant pleads, That he and another did the Trespass jointly, and that the Plaintiff *relaxavit* to the other. To that it was replied, *Non est factum*; to which it was demurred, and Judgment

pro Def. for King William died the 8th of March, 1701. so it was *contra pacem Regis*, and not *contra pacem Reginae*; the Omission of *contra pacem* had been only Matter of Form, but here it is repugnant, for the Court must take Notice of the Demerit of the King, that is, the Description of the Trespass, and a Trespass done *contra pacem Regis*, could not be given in Evidence; indeed a Verdict would have aided it. *1b.*

Trespass, Assault, and Battery, laid on the first of October 3 Reg. The Defendant, as to the *Vi & Armis*, pleaded *Non cul.* and as to the Residue says, That long before (*viz.*) on the 13th of September, a Stranger's Bull had broke into his Close; that he was driving him out to put him in the Pound, and the Plaintiff came into the said Close, and *manu forti impedivit ipsum ac Taurum predict. resussisse voluit & quod ad praeveniend. &c. ipse idem Defend. parvum flagellum super querentem molliter imposuit quod est idem residuum, &c. absq; hoc quod cul. fuit ad aliquod tempus ante eundem 13 Diem.* The Plaintiff demurred, Mr. Eyre for the Plaintiff argued, That they should have requested him to go out of the Close. 19 H. 6. 31. 11 H. 6. 23. 2 Ro. Tresf. 547, 548, 549. and that *Flagellum molliter imponere* is repugnant. 1 Sid. 4. Lastly, The Traverse is short, and no Answer to the Time after. 1 Leon. 307. 3 Cro. 87. 1 Ro. Rep. 406. *Et per Cur.* There is a Force in Law, as in every Trespass *quare clausum fregit*; as if one enters into my Ground, in that Case the Owner must request him to depart, before he can lay Hands on him to turn him out, for every *Impositio manuum* is an Assault and Battery, which cannot be justified upon the Account of breaking the Close in Law; without a Request, the other is an actual Force, as in Burglary, as breaking open a Door or Gate; and in that Case it is lawful to oppose Force to Force; or if one breaks down the Gate, or comes into my Close, *Vi & Armis*, I need not request him to be gone, but may lay Hands on him immediately, for it is just returning Violence with Violence. So if he comes forcibly and takes away my Goods, I may

Where in entering his Close there is only Force in Law, H. cannot lay Hands on the Trespasser before Request to depart, otherwise where there is an actual Force.

may oppose him without any more ado, for there is no Time to make a Request.

Taking Cattel from *H.* is a taking from his Person. Where Traverse goes to the Matter, all before is Inducement, and waved, otherwise where to the Time only.

2dly, *Powel, J.* held, That the Attempt to take and rescue the Bull, was an Assault on his Person, and a taking from his Person; for if *H.* is driving Cattel on the Highway, and one comes and takes them from him, it is Robbery, which cannot be without a taking from his Person, *quod non fuit negatum.* Vide 19 *H. 6.* 66. 2 *Ro.* 549. *Placito II.* 1 *Ro. Rep.* 19.

3dly, They held the *quod est eadem residuum* good, without a Traverse, and therefore no Traverse was necessary, (*Vide 1 Saund.* 8.) and consequently, it is no matter, tho' it be short, for here it goes only to the Time, where *quod est idem* avers it to be the same. *Et per Holt. C. J.* where a Traverse goes to the Matter of a Plea, &c. All that went before becomes Inducement, and is waved by the Traverse; but where a Traverse goes to the Time only, what was set out in the Plea before, does not become bare Matter of Inducement, nor is it waved by the Traverse. *Sed adjournat Mr. Eyre, pro quer. Mr. Brydges pro Def. Green versus Goddard, Ann. B. R. Salk.* 641.

Son Assault demesne, a good Plea in *Maibem*, where the first Assault was violent.

In Trespas for an Assault, Battery, and *Maibem*, Defendant pleaded *Son Assault demesne*, which was admitted to be a good Plea in *Maibem*: But the Question was, What Assault was sufficient to maintain such a Plea in *Maibem*: *Holt, C. J.* said, That *Wadham Wyndham, J.* would not allow it, if it was an unequal Return; but the Practice had been otherwise, and was fit to be settled. That for every Assault, he did not think it reasonable a Man should be banged with a Cudgel; that the Meaning of the Plea was, that he struck in his own Defence. That if *A.* strikes *B.* and *B.* strikes again, and they close immediately, and in the Scuffle *B.* *Maibems A.* that is *Son Assault*, but if upon a little Blow given by *A.* to *B.* *B.* gives him a Blow that *Maibems* him, that is not *Son Assault demesne.* *Powel J.* agreed, for the Reason why *Son Assault* is a good Plea in *Maibem*, is because it might be such an Assault as indangered the Defendant's Life. *Cockcroft versus Smith. Pas. 4 Ann. B. R.*

Union of *England* and *Scotland*.

THE Preamble recites, That Articles of Union, *Annæ, c. 8.* were agreed on the 22d of *July*, in the 5th Year of the Queen, by Commissioners of both Kingdoms, and that the same were ratified by the Parliament of *Scotland*, on the 16th of *January*, in the same Year, and are as follow, (*viz*)

Art. I. That the two Kingdoms be United from the first of *May*, 1707, by the Name of *Great-Britain*, and that the Ensigns Armonial of the said United Kingdom, be such as her Majesty shall appoint, and the Crosses of *St. George* and *St. Andrew*, conjoined in all Flags and Colours.

II. That the Succession of the Crown be settled in the Protestant Branches of the House of *Hannover*, as it stands limited in *England*.

III. That the United Kingdom have but one Parliament, called *The Parliament of Great-Britain*.

IV. That the Subjects of the United Kingdom shall have full Freedom and Intercourse of Trade within the said United Kingdom, and in the Dominions and Plantations thereto belonging, and that there be a Communication of all other Rights and Privileges, except where it is otherwise agreed by these Articles.

V. All Ships belonging to the Subjects of *Scotland*, shall be deemed and pass as Ships of the built of *Great-Britain*.

VI. That the Allowances, Encouragements, and Drawbacks, Restrictions and Regulations of Trade, with the Customs and Duties settled in *England*, shall be the same thro' the whole United Kingdom. And no *Scots* Cattel, carried into *England*, shall be liable to any other Duties than those of *England* are ; and when Oats are Fifteen Shillings a Quarter, or under, there shall be Two Shillings and Six-Pence paid for every Quarter of Oatmeal exported ; and the Prohibitions in *Scotland*, against importing Victuals from *Ireland*, shall remain in Force 'till 'tis otherwise provided by the Parliament of *Great-Britain*.

VII. That all Parts of the United Kingdom be liable to the same Excises, provided that in *Scotland* no higher Imposition than Two Shillings *Sterling* be laid on a Barrel of Beer or Ale, containing Thirty-four Gallons.

VIII. By

VIII. By the Eighth Article, the Duties on Salt in Scotland are settled.

IX. Whenever the Sum of 1,997,763 *l.* 8 *s.* 4 *d.* shall be raised on Land in England, Scotland shall be charged with the Sum of 48,000 *l.* as the Quota of that Kingdom, and so proportionably for a greater or lesser Sum raised in England, and the said Quota for Scotland shall be raised and collected, as the Cess now is in Scotland, subject to the Regulations of the Parliament of Great-Britain.

X. During the Continuance of the Duties on Stamp Paper, &c. in England, Scotland shall not be charged with the same respective Duties.

XI. Nor with the Duties on Windows, which expire the first of August 1710.

XII. Nor with the Duties on Coals, which expire the 30th of September 1710.

XIII. Nor with the Duties on Malt, which expire the 24th of June 1707.

XIV. That Scotland be not charged with any other Duties laid on in England before the Union, except those consented to in this Treaty, provided that if the Parliament of England shall lay any farther Customs or Excises with which, by Virtue of the Treaty, Scotland is to be charged equally with England, Scotland shall be liable to the same, and have an Equivalent to be settled by the Parliament of Great-Britain; provided that no Duty be laid on Malt in Scotland during the present War. And it is agreed, That no further Exemptions be insisted on for Scotland, but that the rest shall be left to the Consideration of the British Parliament.

XV. And whereas the Subjects of Scotland will be liable to several Customs and Excises now payable in England, which will be applicable to pay the Debts of England, contracted before the Union, it is agreed, That Scotland shall have an Equivalent for what it shall be so charged (*Viz.* 398,085 *l.* 10 *s.* And whereas after the Union, the Customs and Excise in Scotland, on Account of the Encrease of Trade, will probably encrease beyond the present annual Revenue, it is agreed, That there shall be a proportionable Equivalent also answered to Scotland, for such encrease of the Revenues. And the said Monies, so granted to Scotland, by way of Equivalent, shall be applied in Manner following: *Viz.* 1. To make Satisfaction for any Losses private Persons may sustain by reducing the Coin of Scotland to the Standard of England. 2. That the Capital Stock advanced by the Scots Indian Company, with Interest for the same, after the Rate of 5 per

5 per Cent. shall be paid. Whereupon the said Company shall be dissolved, and neither Trade, or grant Licence to Trade. 3. That the publick Debts of *Scotland* shall be paid, and 2000 *l. per Annum* for the Space of Seven Years, shall be applied in promoting the Woollen Manufacture, and afterwards for promoting the Fisheries, and such other Manufactures and Improvements in *Scotland*, as may conduce to the general Good of the United Kingdom. And her Majesty is empowered to appoint Commissioners for disposing of the said Monies granted as an Equivalent to *Scotland*, who shall be accountable to the Parliament of *Great-Britain*.

XVI. The Coin shall be of the same Standard and Value throughout the United Kingdom, as in *England*, and a Mint shall be continued in *Scotland*, under the same Rules as in *England*.

XVII. The same Weights and Measures shall also be used throughout the United Kingdom, as are now used in *England*, and Standards sent down to the Burghs in *Scotland*.

XVIII. The Laws concerning the Regulation of Trade, Customs, and Excises, to which *Scotland* is to be liable by this Treaty, to be the same in *Scotland* as in *England*, but all other Laws in *Scotland* to remain in Force, which are not inconsistent with this Treaty, alterable by the Parliament of *Great-Britain*, as to what concerns publick Right, Policy, and Civil Government, but no Alteration to be made in the Laws which concern private Right, unless for the evident Utility of the Subjects of *Scotland*.

XIX. That the Court of Session, or College of Justice, retain the same Authority and Privileges as before the Union, subject to such Regulations for the better Administration of Justice, as shall be made by the *British* Parliament: And none shall be appointed ordinary Lords of Session, but such as have served in the College of Justice as Advocates or principal Clerks of Session for the Space of five Years, or as Writers for ten Years; and no Writer shall be admitted Lord of Session, unless he undergo a private and publick Trial on the Civil Law, before the Faculty of Advocates, and be found qualified two Years before he be named a Lord of the Session, but the Qualifications of Lords of Session may be altered by Parliament. The Court of Justiciary also, shall retain the same Authority and Privileges as before the Union, subject to the Regulations of Parliament, without Prejudice to other Rights of Justiciary. All Admiralty Jurisdictions, shall be under the Admiralty of *Great-Britain*,
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provided there be always continued in *Scotland* a Court of Admiralty as in *England*, for determining all Maritime Cases relating to private Rights in *Scotland*, subject to the Regulations of the *British* Parliament. And that the heritable Rights of Admiralty and Vice-Admiralties in *Scotland*, be reserved to the Proprietors, subject to the Regulations of the *British* Parliament. And that all other Courts in *Scotland* remain as they are, Subject to the like Regulations. And no Causes in *Scotland* shall be cognizable in the Courts of *Westminster*, or in any other Courts of the like Nature. Nor shall those Courts have Power to review, alter, or stop the Execution of any Sentences in the Judicatures of *Scotland*. And there shall be a Court of Exchequer in *Scotland*, for deciding Questions concerning the Revenues and Customs, with the same Authority as the Court of Exchequer in *England*; and the said Court shall have Power of passing Signatures, Gifts, Tutories, &c. as the present Court of Exchequer in *Scotland* hath; and a Privy Seal may be continued in *Scotland*, for preserving the publick Peace, until otherwise established by the *British* Parliament.

XX. All Heritable Offices are reserved to the respective Proprietors.

XXI. The Rights and Privileges of the Royal Burghs in *Scotland*, shall be preserved entire.

XXII. Sixteen Peers of *Scotland* shall sit and vote in the House of Lords of *Great-Britain*, and Forty-five Representatives of *Scotland* in the House of Commons.

XXIII. The said Sixteen Peers of *Scotland* shall have all Privileges of Parliament which the Peers of *England* now have, and which any Peers of *Great-Britain* shall have after the Union; and particularly the Right of Sitting and Voting upon the Trials of Peers; and in Time of Adjournment or Prorogation, shall be summoned to such Trials as other Peers of *Great-Britain*; and if there be no Parliament in being, the Sixteen Peers who sat in the last preceeding Parliament, shall be summoned. And all Peers of *Scotland* shall, after the Union, be Peers of *Great-Britain*, and have Rank and Precedency immediately after the Peers of the like Orders and Degrees in *England*, at the Time of the Union, and before all Peers of *Great-Britain* of the like Orders or Degrees, created after the Union, and shall be tried as Peers of *Great-Britain*, and enjoy all Privileges as the Peers of *England* now do, or any other Peers of *Great-Britain* may hereafter enjoy, except the Privilege of Sitting in the House of Lords, and the Privileges depending thereon,

and particularly the Right of Sitting upon the Trials of Peers.

XXIV. That there be one Great Seal for the United Kingdom, different from the Great Seal now used in either Kingdom, which shall be used for Sealing Writs to elect and summon the Parliament of *Great Britain*, and for sealing all Treaties with Foreign Princes or States, and all publick Acts, Instruments, and Orders of State which concern the whole United Kingdom, and in all other Matters relating to *England*. But a Seal shall be always kept in *Scotland*, for Sealing all Things relating to private Rights, Offices, Commissions or Grants within that Kingdom. And the Privy-Seal, Signet Casser, Signet of the Justiciary Court, Quarter-Seal, and Seals of Courts, now used in *Scotland*, shall be continued, but altered and adapted to the State of the Union, as her Majesty shall think fit. And the said Seals, and the Keepers of them, shall be subject to such Regulations as shall be made by the Parliament of *Great Britain*. And the Crown, Scepter, and Sword of State, the Records of Parliament, and all other Records, Rolls, and Registers, publick and private, shall be kept in *Scotland*.

XXV. And Lastly, All the Laws and Statutes of either Kingdom, inconsistent with these Articles, shall be void.

*The Act for securing the Protestant Religion and Presby- Acts for Secu-
terian Church Government within the Kingdom of Scotland, rity of Reli-
is next incerted.* gion.

*Then the Act for securing the Church of England as by
Law established.*

Which said Acts are made Fundamental and Essential Conditions of the Union, and with the said Articles of the Union, are hereby ratified.

*Then follows the Act for settling the Manner of Electing
the Sixteen Peers, and Forty-five Members, to represent
Scotland in the Parliament of Great-Britain.*

Wherein it is enacted, That the Sixteen Peers of *Scot-* Act for Elect-
land, who shall have a Right to Sit and Vote in the *British* ing the Scots
House of Peers, shall be named by the Peers of *Scotland*, Members to
out of their own Number, and that by open Election, sit in the *Bri-*
and Plurality of Voices of the Peers present, and of *tish* Parlia-
the Proxies for such as shall be absent. And that of the ment.
said Forty-five Representatives of *Scotland* in the House of
Commons, Thirty shall be chosen by the Shires or Stewar-
tries, and Fifteen by the Royal Burghs, viz. One for
L 2 every

every Shire and Stewartry, except the Shires of *Bute* and *Cathness*, which shall chuse one by Turns; the Shires of *Nairn* and *Cromarty*, which shall also chuse by Turns; and in like Manner, the Shires of *Clackmanan* and *Kinross* shall chuse one by Turns. And the fifteen Representatives for the Royal Burghs, shall be chosen as follows, viz. The Town of *Edinburgh* shall have Right to elect and send one, and each of the other Burghs shall elect a Commissioner, as they now use to elect Commissioners to the Parliament of Scotland, which Commissioners and Burghs being divided into fourteen Classes or Districts, shall meet at such Time and Burghs within their respective Districts, as her Majesty shall appoint, and elect one for each District, viz. the Burghs of *Kirkwall*, *Week*, *Dornock*, *Dingwall*, and *Taine*, one; the Burghs of *Fortrose*, *Inverness*, *Nairn* and *Forres*, one; the Burghs of *Elgin*, *Cullen*, *Banff*, *Inverury* and *Kintore*, one; the Burghs of *Aberdeen*, *Inverberry*, *Montrose*, *Aberbrothock* and *Brochline*, one; the Burghs of *Forfar*, *Perth*, *Dundee*, *Coupar*, and *St. Andrews*, one; the Burghs of *Craill*, *Kilrennie*, *Anstruther Easter*, *Anstruther Wester*, and *Pittenweem*, one; the Burghs of *Dysart*, *Kirkaldie*, *Kinghorn* and *Bruntisland*, one; the Burghs of *Innerkithen*, *Dunfermline*, *Queens-ferry*, *Culross* and *Sterling*, one; the Burghs of *Glasgow*, *Reisfrew*, *Ruglen* and *Dumbarton*, one; the Burghs of *Haddington*, *Dunbarr*, *North Berwick*, *Lauder* and *Fedburg*, one; the Burghs of *Selkirk*, *Peebles*, *Lithgow* and *Lanerk*, one; the Burghs of *Dumfries*, *Sanguhar*, *Annan*, *Lockmaben* and *Kirkeudbright*, one; the Burghs of *Wigtoun*, *New Galloway*, *Stranraer* and *Whitehern*, one; and the Burghs of *Airirvin*, *Rothfey*, *Campbeltown* and *Inverary*, one.

Qualifications
of the Ele-
ctors and
elected.

None shall be capable of being elected for any of the said Estates, but such as are One and Twenty Years of Age compleat, and Protestants, or being suspected of Popery, refuse to sign the *Formula* contained in the 8 & 9 W. 3, entitled, *An Act to prevent the Growth of Popery*. And none shall be capable to elect, or be elected to represent a Shire or Borough, except such as are capable by the Laws of Scotland to elect, or be elected Commissioners for Shires or Burghs, to the Parliament of Scotland.

And the Act passed in Scotland, for settling the Manner of electing the Sixteen Peers, and Forty-five Members to represent Scotland in the Parliament of Great-Britain, is declared to be as valid as if the same had been Part of the Articles of Union, and ratified by the said Act passed in Scotland, and by this Act as aforesaid.

Union of ENGLAND and SCOTLAND. 165

An Act passed in *Scotland* for the Security of the King- 6 *Anna*, 2. 2.
dom, and another Act anent Peace and War, are hereby
repealed.

To the end the Union of the two Kingdoms may be 6 *Anna*, c. 6.
rendred more entire and compleat, it is enacted, That One Privy-
after the first of *May* 1708, there shall be but one Privy Council.
Council for the Kingdom of *Great-Britain*, which shall
have the same Powers and Authorities as the Privy Coun-
cil of *England* had at the Time of the Union.

And in every Shire and Stewartry in *Scotland*, there Justices of
shall be appointed under the Great Seal of *Great Britain*, Peace.
a sufficient Number of Justices of Peace, who besides the
Powers vested in Justices of Peace by the Laws of *Scot-*
land, shall exercise such other Powers as appertain to the
Office of a Justice of Peace in *England*, provided that in
the Sessions of Peace, the Methods of Trial and Judg-
ments shall be according to the Laws of *Scotland*.

Provided, That this Act shall not be construed to alter
or infringe the Rights and Privileges granted to the City
of *Edinburgh*, and other Royal Burghs, of having Ju-
stices of Peace within their respective Bounds.

And Circuit Courts shall be kept in *Scotland* twice in Circuits,
the Year, viz. in *April* or *May*, and in *October*, in the
same Manner as is appointed by an Act of King *Charles II.*
concerning the Regulation of the Judicatories.

When any Parliament shall hereafter be summoned, Manner of
Writts shall issue under the Seal of *Great Britaen*, directed electing Re-
to the severall Sheriffs and Stewarts of the respective presentatives.
Shires and Stewartries in *Scotland*, who on Receipt
of such Writts, shall forthwith give Notice of the
Time of Election for Knights or Commissioners for
their respective Shires or Stewartries; and at the Time of
the Election, the Freeholders shall meet at the head
Burghs of the severall Shires and Stewartries, and proceed
to the Election, and the Clerks immediately after the
Election is over, shall return the Names of the Persons
elected to the Sheriff or Stewart, who shall annex it to
his Writ, and return it to the Court from whence it issued.
And as to the Representatives of the Royal Burghs, the
Sheriff of the Shire of *Edinburgh* shall, on Receipt of
the Writ, direct his Precept to the Provost of *Edin-*
burgh, to elect a Burgess for that City; and the com-
mon Clerk shall certify the Name of the Person elected,
to the Sheriff of *Edinburgh*, who shall annex it to his
Writ, and return it. And as to the other Royal Burghs,
divided into Fourteen Classes or Districts, the Sheriffs and
Stewards, on Receipt of the Writs, shall direct their Pre-
cepts to every Royal Burgh of their respective Shires or
Stewartries,

Stewartries, reciting the Contents of the Writ, and commanding them forthwith to elect a Commissioner as they used to do for the Parliament of *Scotland*, and order the said Commissioners to meet at the presiding Burgh, on the 30th Day after the Teste of the Writ, unless it be on a Sunday, and then the next Day, and chuse a Burgefs for the Parliament; and the common Clerk of the Borough, shall return the Name of the Person elected, to the Sheriff or Stewart, who shall annex it to his Writ, and return it to the Court from whence it issued; and in case a Vacancy happen in Time of Parliament, a new Member shall be elected, conformable to the Method before appointed.

Provided, that if any Shire or Stewartry, wherein a Royal Burgh is, hath not then a Turn to elect a Commissioner or Knight of the Shire or Stewartry, then it shall be omitted out of the Writ.

6 *Anna*, c. 23.
Election of
the sixteen
Peers.

Whenever her Majesty, or her Successors, shall declare their Pleasure for summoning a Parliament, in order to the electing the Sixteen Peers of *Scotland*, a Proclamation shall issue under the Great Seal of *Great-Britain*, commanding all the Peers of *Scotland* to assemble at *Edinburgh*, or at such other Place in *Scotland*, and Time as shall be appointed in the Proclamation to elect the said Sixteen Peers.

And every such Proclamation shall be duly published at the Market-Cross in *Edinburgh*, and in all the County Towns in *Scotland*, Five and twenty Days at least before the Time appointed for the Meeting of the Peers.

And all the Peers, before they proceed to Election, shall in Presence of the Peers assembled, take the Oaths of Allegiance and Supremacy, and make the Declaration against Transubstantiation, and the Worship of Saints, and take and subscribe the Abjuration Oath.

And such Peers as live in *Scotland*, who shall not be present, may take the said Oaths, and make and subscribe the said Declaration in any Sheriff's Court in *Scotland*, who shall return the original Subscription of such Oath and Declaration, to the Peers assembled, and such Peer shall thereby be qualified to make his Proxy, or a signed List, containing the Names of the Sixteen Peers for whom he votes. And such Peers of *Scotland*, as reside in *England*, may take the said Oaths, and make the said Declaration in the Courts of *Westminster*, which being certified to the Peers of *Scotland*, under the Seal of the Court where made, shall entitle such Peer to make his Proxy, and send a signed List as aforesaid.

Provided

Provided that such Peers of *Scotland*, as are Peers of *England*, shall sign their Proxies by the Title of their Peerage in *Scotland*.

And no Peer shall have more than two Proxies at one Time.

And at the Meeting of the Peers, they shall give in the Names of the Persons by them nominated to sit in the House of Peers of *Great-Britain*; and the said Clerk-Register, or two Principal Clerks of Session appointed by him, shall, after the Election is made and examined, certify the Names of the Sixteen Peers so elected, and attest the same in the Presence of the Peers, and so attested, it shall be returned into the Court of Chancery of *Great Britain*, before the Time of the Meeting of the Parliament.

And the Peers shall come to such Meetings with their usual Attendance, according to the Laws of *Scotland*, which prescribe with what Numbers Subjects may repair to the Courts of Justice.

And the Peers so assembled, shall not propose, debate, or treat of any other Matter but the Election of the Sixteen Peers, upon Pain of incurring a Premunire.

And all Matters concerning the Election of the Sixteen Peers of *Scotland*, appointed to be observed by the Articles of Union, and the said recited Act, settling the Manner of electing the Sixteen Peers, and Forty-five Members, shall be observed and performed, except where this Act has otherwise provided.

And where any of the said Sixteen Peers shall die, or become otherwise legally disabled to sit in the House of Peers, another Peer shall be elected in his Room, in such a Manner, and under such Restrictions and Regulations as are directed to be observed in the Election of the Sixteen Peers.

And for the more effectual Trial of any Peer who shall Trials of commit Treason or Felony in *Scotland*, a Commission may Peers in Scot- issue under the Great Seal of *Great Britain*, constituting land. certain Persons her Majesty's Justices, to enquire by the Oaths of good and lawful Men of such County of *Scotland*, as shall be therein named, of all Treasons, Felonies, &c. committed by any Peer of *Great-Britain*, which Inquisition shall be taken in the same Manner as Indictments are taken before Justices of Oyer and Terminer in *England*, where a Peer is indicted for any such Offence; and such Justices shall issue their Precepts to the Sheriffs, to return so many good and lawful Men of the County, as may be sufficient to enquire of the said Offences, and Twelve or more of them, so returned and sworn, shall

be sufficient to find such Indictment, and the said Commissioners may impose a Fine on the Sheriff, if he neglect to summon a sufficient Number, or on the Person summoned, if they neglect to appear.

And every Person refusing to take the Oath of Abjuration, or being a Quaker, shall refuse to declare the Effect thereof, upon his solemn Affirmation, if required by any Candidate, shall be incapable of voting for the Election of any Member to serve in the House of Commons, for any Place in *Great-Britain*, or Commissioner to chuse a Burgeſs for any Place in *Scotland*.

Provided, that any Quaker who shall declare the Effect of the Abjuration Oath upon his solemn Affirmation, shall not be liable to any Pains for refusing the said Oath.

6 *Annæ*, c. 25.
Court of Exchequer in
Scotland.

From the first Day of *May*, 1708, a Court of Exchequer shall be established in *Scotland*, for deciding Questions concerning the Revenues, Customs, and Excise there, and shall have the same Power and Authority as the Court of Exchequer in *England* hath; and the said Court of Exchequer shall have the same Power of passing Signatures, Gifts, Tutories, and other Things, as the Court of Exchequer in *Scotland* formerly had.

And the Lord Treasurer of *Great-Britain*, and such other Persons as shall be constituted by Commissions under the Great Seal of *Great-Britain*, to be chief Baron and Barons of the said Court of Exchequer in *Scotland*, shall be Judges of the said Court; and the said Barons, in the Absence of the Lord Treasurer, shall put in Execution all and every the judicial and other Powers wherewith the said Court shall be invested; and the said Barons shall remain and continue in their respective Posts *quam diu se bene gesserint*, which Barons shall be made out of the Sergeants or Barristers at Law, of five Years standing in some of the Four Inns of Court in *England*, or out of the Advocates of the College of Justice in *Scotland*, and shall take the same Oaths as the Barons of *England* do on their Admission, and shall wear such Robes and Habits as the chief Baron and Barons of *England* do, or such others as the Queen or her Successors shall appoint. And there shall be in the said Court, the several Offices of Queen's Remembrancer, Lord Treasurer's Remembrancer, Clerk of the Pipe, and such other Officers as are in the Court of Exchequer in *England*, or are now in being in *Scotland*, relating to Signatures, Gifts and Tutories, to be appointed by her Majesty.

And there shall be a Seal appointed by her Majesty, for Sealing such Letters-Patents, Grants, Commissions, Writs, Precepts, and other Process and Proceedings as shall issue out, and ought to pass under the Seal of the said Court. And the said Court is impowered to appoint such other Officers, Clerks and Servants, as shall be thought convenient for the Service of the said Court. And all and every the Sheriffs, and their Deputies, and other Officers, are required to be aiding, assisting, and obedient to the said Court, on Pain of being punished by the said Court for their Contempt.

And upon any Issues joined in any Causes triable in the said Court upon Matters of Fact, or which would be triable by Juries, if the same were in *England*, the Barons are authorised to cause the same to be tried, either at Bar, or elsewhere, by a Jury of Twelve Persons, of the County or Place where the said Matters in Issue arise, or where the said Court shall direct the same to be laid; each Juror to be seized in his own, or his Wife's Right, of Lands or Tenements of an Estate of Inheritance, or for Life, within the County or Place from whence the Jury came, of the yearly Value of five Pounds *per Annum*, or shall be worth two Hundred Pounds *Sterling* in Personal Estate, the Want whereof shall be a sufficient Cause of Challenge; and in all Verdicts to be given by Jurors, the whole Number of Twelve must agree: And the Barons of the said Court shall proceed to give Judgment, and award Executions thereupon, and do all other Acts and Things relating to such Trials, Judgments, and Executions, as are done by the Court of Exchequer in *England* in the like Cases.

Jurors in *Scotland* to have five Pound *per Annum*.

The Statutes of Jeofails or Amendments in *England*, shall extend to all Actions, Informations and Suits brought in the Court of Exchequer in *Scotland*, for Recovery of any Debt, Duty or Revenue due to the Crown: And in the said Court of Exchequer, there shall be observed four Terms in the Year, one whereof shall be called *Martimas* Term, and commence on the 3d of *November*, and end the 29th of *November*, another *Candlemas* Term, to commence the 23d of *January*, and end the 12th of *February*; another *Whitsontide* Term, to commence the 25th of *May*, and end the 15th of *June*; and the Fourth to be called *Lammass* Term, to commence the 20th of *July*, and end the 8th of *August*. And the Barons shall appoint the Days and Times for the Returns of Writs, and impose upon Sheriffs and other Officers, to whom the Execution of such Writs appertain, such Fines and Penalties as they see reasonable; and any of the said Barons

Four Terms appointed.

Barons, out of Court, shall take Bails, Recognisances, and other Securities, Informations, Bills, Answers and Affidavits, and take and declare Accounts, and do all Things relating to the Business or Jurisdiction of the Court, as fully as the Barons of the Exchequer in England may do: And the said Barons are hereby authorised to hold Plea in Equity, by *English Bill*, Petition, or Suit, brought by or against the Attorney or Advocate-General, or by or against any other Persons concerned in the Revenues, Debts or Duties before-mentioned, for any Discovery or Relief in Equity, and to do all other Things in Relation to such Suits as are practised in like Cases in the Court of Exchequer in England.

And all Persons employed in the collecting, receiving, or managing the said Revenues, shall be subject to the Rules, Orders, and Jurisdiction of the said Court of Exchequer in Scotland.

Writs of Error in the Parliament of England,

Provided, that it shall be lawful for any Person, Party to any Judgment given in the said Court of Exchequer in Scotland, or such Persons as shall be affected by such Judgment, to bring a Writ of Error, returnable in the Parliament of Great Britain.

Provided, that the Lord High Treasurer of Great Britain shall exercise the same Authority and Jurisdiction about the Revenues, Duties, Customs, and Excise in Scotland, as he does in England.

Provided also, that all Fines, Pains, and Forfeitures which shall be imposed or become forfeited in the said Court of Exchequer in Scotland, shall be levied by the Authority and Process of the said Court, altho' the Persons, their Lands or Tenements, Goods and Chattels liable thereto, remain in Scotland.

And the Barons of the said Court of Exchequer, are empowered to take and pass the Accounts of all Sheriffs, and other Officers in Scotland, concerned in levying the Revenue of the Crown.

Acts relating to the Customs and Excise, &c. extended to Scotland.

And the Acts made in England concerning the Customs, Subsidies, and Excises, and all the Authorities, Powers, Jurisdictions, Qualifications of Officers and Seizures, Directions for Navigation and carrying Goods Coastwise, &c. shall extend to Scotland, and be cognizable by the Court of Exchequer in Scotland, as to all Matters arising there. And the Merchants and other Persons entitled to any Benefits, Allowances, Advantages, or Remedies concerning the said Customs and Excises, shall enjoy the same as amply in Scotland, as if the same were, or arose in England.

And the Queen is impowered by Commissions out of the Court of Exchequer in Scotland, to ascertain the Ports, Creeks and Havens, where Goods and Merchandise shall be exported or imported, and the Extent, Bounds and Limits of such Ports, &c. which shall be subject to the same Orders and Regulations as the Ports in England are.

All Barristers at Law, and Advocates, who may practise in the Exchequer in England, or Court of Sessions in Scotland, may practise in this Court.

Provided that the Validity and Preference of the Title of the Crown to any Honours, Mannors, Lands, Tenements or Hereditaments, or to Casualties belonging to the Crown, shall continue to be tried in the Court of Session, according to the Laws of Scotland.

And it is enacted, That no Officer or Clerk of the said Court of Exchequer, shall take any other Fees than such as shall be allowed by the said Court, and contained in a Table to be hung up in the publick Offices there.

And Lastly, It is enacted, That the Number of the Barons of the said Court of Exchequer in Scotland, shall not exceed five.

Whitsontide Term for the Court of Exchequer in Scotland, shall for the future begin on the first Day of June, and end the 22d of the same Month; and Lammas Term shall begin the 7th of July, and end the 26th of the same Month. 7 *Anna*, c. 21.
Terms altered.

After the first of May 1710, no Person shall be obliged by himself, his Tenants or Servants, to attend the Courts of Justiciary, except the Sheriff or his Deputies, and their Officers; nor shall they be obliged to attend the said Lords Justiciaries out of the Bounds of the County, whereof they are respectively Sheriffs; and no Person shall be obliged to attend at the Place where the Circuit Court is held, during such Time as the said Court shall continue there, except such Persons as shall be summoned on Juries, or who shall be summoned or bound to give Evidence, or bound over to appear at such Justice Court, or such Persons as shall make Presentments; provided that when Presentments are made by the Justices of Peace at their Quarter-Sessions, or yearly Meetings in July or February, the said Justices may depute one or more of their Number in Place of the whole, and except such other Persons, as by the Duty of their Offices are obliged to attend the said Court. 8 *Anna*, c. 15.
Attendance on the Courts of Justiciary, &c. dispensed with.

And whereas by the 6th of *Anna*, the Justices of Peace in Scotland are empowered to exercise the same Authority as Justices of Peace in England, and the old Method of making up Dittay, and exhibiting Informations Justices of Peace.

tions against Delinquents, by the Strefs and Porteous Roll is become unnecessary, it is therefore enacted, That the said Method of taking up Dittay, and exhibiting Informations by the Strefs and Porteous Roll, shall be abolished.

Informations and Presentments, how made.

And Informations in order to making up of Dittay, concerning Crimes to be tried in the said Circuits of *Scotland*, shall be by Presentments made by the Justices of Peace at their Quarter-Sessions, or upon Informations taken by the Sheriffs, Stewards, Bailies of Regalities, and their Deputies, Magistrates of Boroughs, or other Inferior Judges and Magistrates within the Jurisdiction of the respective Circuits, concerning such Crimes as are to be tried before the Lords of Justiciary in their Circuits, in the Months of *July* and *February*; and the said Justices of Peace, or two of them, are required to meet at the Head Burgh in their respective Districts, on the first Days of the said Months of *July* and *February* yearly, to receive such Informations as shall be offered concerning Criminal Matters to be tried in the Circuits; and the said Sheriffs, Stewards, Bailies, and other inferior Judges and Magistrates, shall meet upon the 22d Days of the said Months of *July* and *February* respectively, yearly, at the ordinary Places and Hour of their Meetings, there to receive such Informations as shall be offered concerning Criminal Matters; and the said Justices, Sheriffs, &c. are required to make up particular Accounts of such Criminal Facts as happen in their respective Bounds, which are to be tried in the Circuits, containing the Names and Designation of the Offenders, the Facts committed, with the Circumstances of Time, Place, and others, that may discover the Truth, with the Names and Designations of the Witnesses, and Titles of such Writings as are to be used at the Trials, which Information shall be signed by the said Justices, or two of them, and their Clerk, or by the said Sheriffs, Stewards, Bailies of Regalities, or their Deputies and Clerks, or by Magistrates of Boroughs or other inferior Judges or Magistrates, and their Clerks respectively, and shall be transmitted by the Clerks to the Lord Justice's Clerk, or his Deputies, at *Edinburgh*, at least forty Days before the holding of the respective Circuit Courts, that being given to her Majesty's Advocate, Libels and Indictments may be raised and executed according to former Laws and Customs.

Magistrates of Cities to attend the Judges.

And the Magistrates of such Cities and Boroughs where the respective Circuit Courts are held, shall attend the Lords of Justiciary while they remain in the respective Cities,

Cities, &c. and prepare convenient Places for the Justices of Peace to be present in the said Courts, who are declared to have the same Privileges in Court as the Justices of Peace have in *England*.

Provided that this Act shall not restrain her Majesty's Advocate, or any Persons, to inform and prosecute a Criminal Action before the Circuit Court, in the same Manner as is used before the Justiciary Court in *Edinburgh*, or to alter or innovate the Method of returning Jurors or Assizers by the Sheriffs.

The right of Presentation to Churches, and the disposing vacant Stipends to pious Uses, is restored to the true Patrons. 10 A. c. 12.
Patrons by this Act. 10 A. c. 12.

An Act passed, *Anno 1690*, for discharging the Rule of Vacance, is hereby repealed, and it is hereby declared, Act for ob- 10 A. c. 13:
That the Christmas Vacation of the Session of the College serving Christ-
of Justice, and all other inferiour Courts in *Scotland*, shall mas.
continue yearly from the 20th of December to the 10th
of January. 10 Anne, c. 13.

The Circuit Courts of *Scotland* shall be kept only once a Year, viz. in the Months of April or May, and the Circuits only 10 A. c. 23:
Circuit Courts in October shall cease, unless the Crown once a Year.
by Proclamation shall order them to be held. 10 A.
c. 23.

An Act for encouraging all Superiors, Vassals, Land- 1 Geo. c. 20.
lords and Tenants in *Scotland*, to continue Loyal to King Vassals, &c.
George, made upon the Insurrection in *Scotland*, in the Encourage-
first Year of his Reign. 1 Geo. c. 20. ment for

After the first Day of November 1716, it shall not be their Loyal-
lawful for any Person within the Shires of *Dumbarton*, &c.
on the North Side of the Water of *Leven*, *Sterling* on the 1 Geo. c. 54.
North Side of the River of *Forth*, *Perth*, *Kincardin*, *Aberdeen*, *Highlanders*
Inverness, *Nairn*, *Cromarty*, *Argyle*, *Forfar*, *Banff*, *Sutherland*, *disarmed*.
Gairness, *Elgine* and *Ross*, to have in his Custody, use
or bear broad Sword or Target, Poinard, Whingar or
Duk, Side Pistol, or Side Pistol, or Gun, or any other
Warlike Weapon, in the Fields, or in the Way, coming
or going to, from, or at any Church, Market, Fair, Bu-
rials, Huntings, Meetings, or any other Occasion what-
soever, within the Bounds aforesaid, on Pain of forfeit-
ing a Sum not exceeding forty Pounds, or under five, on
being convicted thereof summarily, before one or more
Justices of Peace, and to be imprisoned 'till Payment;
and if after Commitment the same be not instantly paid,
the said Fine shall be levied on the Offender's Goods and
Estate, by Warrant of the said Justice, one half thereof
to be applied to the Use of the Informer, and the other
towards repairing the publick Works of the said Shire;
and

and the Offender to be further liable to a Month's Imprisonment; and for a second Offence, the Offender shall forfeit such Arms, and be liable to a Fine not exceeding Eighty Pounds, or under Ten; and for every subsequent Offence, double the former; and in default of Payment of such Fine, or sufficient Distress, the Offender shall be transported to the Plantations.

Exceptions.

Provided that this Prohibition of keeping or bearing Arms, do not extend to Peers, or their Sons, or to any Officer or their Assistants, employed in the Execution of Justice: Nor shall it hinder any Commoner, having Four Hundred Pounds *per Annum Scots*, or who is otherwise qualified to Vote for Parliament Men to serve for any County, to have in his Custody any Number of Arms allowed by the Laws now in Force, not exceeding two Firelocks, two Pair of Pistols, and two Swords. The Magistrates of every Borough Royal, to have a sufficient Number of Arms for keeping Guard, provided that such Arms be kept in Magazines under the Magistrates Care, and not left in private Houses; and that the Number of Arms in any Burgh, do not exceed Two Hundred; nor to hinder the Officers of the Army, Lieutenants of Counties, their Deputies, and the Militia and fencible Men under their Command, to receive Arms out of his Majesty's Magazines, and use them when they shall be called out by lawful Authority, provided that they return their Arms into the Magazines within Twenty Days after the Expiration of the Time for which they were called out.

And the Lord Lieutenants, or two Deputy Lieutenants, are empowered to search in the Night-time, for any Ammunition, or other Warlike Stores which they judge dangerous to the Peace of the Kingdom, and Persons resisting or opposing such Search, or concealing or conveying away such Arms and Ammunition, shall be liable to a Fine not exceeding Fifteen Pounds *Sterling*, or under Five.

And all Persons within the Limits aforesaid, who have continued faithful to his Majesty, and are hereby obliged to part with their Arms, shall deliver them up to the Lords Lieutenants of their respective Counties, or their Deputies, and shall receive the true Value of them in Money; and the Lieutenants and their Deputies, are required to transmit the same to such Places as his Majesty shall direct, with a List of the Persons who delivered them.

Union of ENGLAND and SCOTLAND. 175

And whereas the Custom of convocating Numbers of Certain Ser-
 vants of his Majesty's Subjects, and obliging them to perform di- vices in Scot-
 tish Services, arbitrary and oppressive, by vertue of *land* turned
 into Money, is contrary to the Nature of into Money.
 good Government, and destructive of the Liberties of the
 People, inconsistent with the Allegiance due to the
 King, and a great Obstruction to Trade and Husbandry,
 it is enacted, That the annual Value of all Services,
 called Personal Attendance, Hosting, Hunting, Watch-
 ing and Warding, shall be paid annually in Money, in-
 stead of them.

Whereas by Reason of many Doubts arising in the 5 Geo. c. 20.
 Construction of the Fifteenth Article, relating to the Annuity of
 Equivalent due, and becoming due to *Scotland*, and the 10000*l. per*
 Difficulties of distinguishing between Debts incurred be- *Annum*, and
 fore the Union, and Debts incurred for the Service of the 2000 *l. per*
 United Kingdom, the Commissioners for taking and stat- *Annum*, set-
 ting the Debts due, and growing due to *Scotland*, by way tied upon
 or Equivalent, have not been able to adjust the Accompts, *Scotland* in
 and are like to meet with insuperable Difficulties, while lieu of the
 the same continues in the Terms of the said Treaty; and Remainder of
 the endeavouring to make such Accompts is attended the Equiva-
 with an excessive Charge to the Publick, and may oc- lent Money
 cation great Discontents in the United Kingdom; for ob- due to them.
 viating thereof, it was adjudged most conducive to the
 publick Quiet and Tranquility, That in lieu of all
 Equivalents that might hereafter be demanded from *Eng-
 land*, or the United Kingdom, on the Foot of the said
 Treaty, such certain Annuities or yearly Funds, and
 other Provisions might be established for the Satisfaction
 of those interested in the Monies which were expected
 to arise from the said Equivalents, as are hereafter ex-
 pressed. And it is enacted, That yearly, and every
 Year, from the Feast of St. John Baptist, 1719, the Sum
 of Ten Thousand Pounds shall be one yearly Fund, and
 the Sum of Two Thousand Pounds another yearly Fund,
 which shall continue and be payable for ever, subject ne-
 vertheless to Redemption by Parliament; which said
 yearly Funds shall be payable out of the Monies arising
 by the Customs, Duties, Excises or Revenues that are un-
 der the Management of the Commissioners of the Cu-
 stoms, and Commissioners of the Excise in *Scotland*.

And in Case the said Customs and Excises shall be de-
 ficient, the same shall be made good out of any other
 Revenues in *Scotland*, which are not appropriated to
 any particular Use.

Which

Which Annuities and Funds of Ten Thousand, and Two Thousand Pounds *per Annum*, shall be payable at the four most usual Feasts in the Year; (*viz.*) the Feast of St. Michael the Archangel, the Birth of our Lord Christ, the Annunciation of the Blessed Virgin Mary, and the Feast of the Nativity of St. John the Baptist, by equal Portions, until the same shall be redeemed, freed from all Taxes or publick Charges to be laid by Authority of Parliament.

Creditors incorporated.

And it being computed, that there remained due to the Creditors in Scotland, on Account of the Equivalent the Sum of Two Hundred Forty Eight Thousand, Five Hundred and Fifty Pounds, at the making of this Act, his Majesty is hereby empowered to incorporate the said Creditors, and all Persons who shall be entitled to any Share or Interest in the said Capital Sum, shall be one Body Politick and Corporate, and have perpetual Succession, and shall be capable to sue and be sued in all Actions and Causes concerning the receiving and recovering of the said Annuity or Fund of Ten Thousand Pounds *per Annum*, and the Distribution thereof, with Powers to do and perform such other Things concerning the said Capital Sum, and the said yearly Fund payable in respect thereof, as the King, by his Letters-Patents shall be pleased to grant.

And the said Capital Sum of Two Hundred Forty Eight Thousand, Five Hundred and Fifty Pounds, shall be deemed the Capital or Joint Stock of the said Corporation, and the Shares of the particular Members, shall be assignable, transferable, and devisable, in such Manner as his Majesty by his Letters-Patents shall appoint.

Entitled to Annuities in Lieu of their Capital Stock.

And every Member shall be entitled to an Annuity in Proportion to his Share in the said Capital Sum of Stock; which Annuities shall be payed at the four most usual Feasts in the Year above mentioned, until redeemed by Parliament.

And as to the said Annuity or Fund of two Thousand Pounds *per Annum*, 'tis enacted and declared, That the same shall be wholly applied towards the encouraging and promoting the Fisheries, and such other Manufactures and Improvements in Scotland, as may most conduce to the general Good of the United Kingdom.

And is declared, That the said Annuities or Funds of Ten Thousand, and Two Thousand Pounds *per Annum* shall be in Lieu and full Discharge of all Equivalent which may be claimed or demanded by Scotland, in Reason of the said Treaty of Union, or otherwise.

And forasmuch as the said Corporation cannot receive 600*l.* *per An-*
num, and distribute the Annuity of Ten Thousand Pounds *num* granted
 Management, without lessening their Interest, it is en-Charges of
 fted, That there shall be payed to the said Corporation, managing
 the further annual Sum of Six Hundred Pounds, for and t*heir* Stock,
 towards the Charge of Management, and other neces-
 sary Charges in receiving and distributing the said An-
 nuity of Ten Thousand Pounds; which annual Sum of
 Six Hundred Pounds, is made payable out of the same
 Funds as the said Annuity of Ten Thousand Pounds *per*
annum.

Uses and Trusts.

THE Sheriff or other Officer, to whom any Writ 19*H. 7. c. 15.*
 or Precept shall be directed, to have Execution Execution of
 of any Lands, Tenements, or Hereditaments, Lands settled
 shall make and deliver Execution of all such Lands and to the Use of
 Tenements as any Person shall be seised of, to the only the Defen-
 se of him against whom Execution is sued. *Stat. 19 dant.*
7. cap. 15.

Where any Person shall stand or be seised of and in 27*H. 8. c. 10.*
 any Honours, Castles, Mannors, Lands, Tenements, The Right
 ents, Services, Reversions, Remainders, or other Here- and Possession
 itaments, to the Use, Confidence or Trust of another Per- of Lands to
 on, or of any Body Politick, by Reason of any Bar- be in him to
 ain, Sale, Feoffment, Fine, Recovery, Covenant, Con- whose Use
 tract, Agreement, Will, or otherwise, then every such they are li-
 person and Persons, and Bodies Politick, that shall have mitted.
 y such Use, Confidence or Trust in Fee-Simple, Fee-
 ail, or Term of Life or Years, or otherwise, or any
 se, Confidence or Trust, in Remainder or Reverter,
 all stand and be seised, deemed and adjudged in lawful
 isin, Estate and Possession of and in such Honours,
 castles, Lands, &c. to all Intents, Constructions and Pur-
 ses in Law, of and in such Estates as they shall have
 Use, Trust or Confidence; and the Estate, Title,
 ight and Possession that was in such Persons who were
 sed of any Lands, Tenements, or Hereditaments,
 the Use, Confidence or Trust of any Person or Persons,
 Body Politick, shall be deemed and adjudged to be in
 m or them that shall have such Use, Confidence or
 rust. 27*H. 8. cap. 10.*

And where divers Persons shall be jointly seised of any Lands, Tenements, Rents, Reversions, Remainders, or other Hereditaments, to the Use, Confidence, or Trust of any of them that are so jointly seised, those Persons who shall have any such Confidence or Trust in any such Lands, shall be deemed and adjudged to have the Possession and Seisin of the said Land, &c. *lb.*

Rents.

And where divers Persons stand and be seised of any Lands, &c. to the Use or Intent that some other Persons shall receive the yearly Rents, to them and their Heirs, or to them for the Term of their Lives, or for Years, or for some other special Time, in every such Case, those Persons, their Heirs and Assigns, that have such Use and Interest, to have and receive such annual Rents, shall be adjudged and deemed to be in Possession and Seisin of the same Rents, of like Estate as they have in the Title, Interest or Use of the said Rents, and may distrain for Non-payment of the same, as if the same had been actually granted to them, with sufficient Clauses of Distress, &c. *lb.*

READINGS.

Cestuy que use before the Statute had but an equitable Interest.

Before the Statute of the 27 of *H. 8.* where Lands were limited to one and his Heirs, to the Use of another, he to whose Use (stiled *Cestuy que use*) might take the Profits, and the Tertenant, or the Person in whom the Freehold was vested, was to make Estates pursuant to the Direction of *Cestuy que use*, but *Cestuy que use* had no more than a bare Trust, or any other Remedy against the Tertenant, but by Subpœna in Chancery upon Breach of the Trust. Whereas now, the Statute of the 27th of *H. 8. c. 10.* gives the Possession to him who has the Use; and this is the Reason, that in Conveyances it is set down in the *Habendum*, to whose Use the Lands are conveyed; and whatever Estate a Man has in the Use, the same he has in the Possession at this Day. *1 Rep. 121, & seq. Chudleigh's Case.*

Requisites to bring a Use within the Statute.

To the Execution of a Use within the Statute of the 27th of *H. 8. c. 10.* it is required, 1. That some Person be seised. But the King, a Corporation, Lord by Escheat, an Alien, one attainted, &c. cannot be enfeoffed or seised to the Use of another, any more than Tenant in Tail, Tenant by Courtesy, or in Dower. 2. The Person to whose Use

Use the Lands are limited (stiled *Cestuy que use*) must be in being. 3. There must be a Use *in esse*, in Possession, Remainder, or Reversion. 4. It is required, That the Estate of the Feoffees, &c. be vested in, or transferred to *Cestuy que use*, otherwise there is no Execution of the Use within this Statute. 1 Rep. 122, 126, 133, 136. Chudleigh's Case.

Since this Statute, a Covenant to stand seised to Consideration, is become a common Conveyance of Land; and in a Deed, but if the Party to whose Use a Man covenants to stand seised, is not his present or intended Wife, Child, Uncle, Cousin, or one whom his Kinsman is about to marry, no Use will arise, and consequently there is no Conveyance. The Law does not allow of any trifling Considerations, such as Service, old Acquaintance, &c. But where one conveys his Lands to another, by Fine, Recovery, or Feoffment, to the Use of his Last Will, and afterwards declares the Uses in his Will, he may appoint a Use without any Consideration. 2 Roll. Abr. 783. 2 Rep. 58.

Where one makes a Feoffment of his Lands to a certain Person, and no Use is declared, it shall by Construction of Law, be to the Use of the Feoffor, but if there be such a Consideration as the Law requires, then it shall be construed to be to the Use of the Feoffee. So when one bargains and sells his Land for Money to another, and no Use is expressed in the Deed, the Law will construe the Intent of the Parties to be to the Use of the Bargainee and his Heirs. But a Gift in Tail shall be to the Use of the Donee, and a Lease for Life or Years to the Use of the Lessee; and if Lessee for Life or Years, grant over their Estate without expressing to whose Use, it shall be to the Use of the Grantees, for there is an implied Consideration, as to pay the Rent to him in Reversion, to be subject to Forfeitures, and punishable for Waste. 2 Roll. Abr. 781, 782, &c.

Where Lands are conveyed to certain Persons in Trust, That the Feoffees shall take the Profits, and deliver them over to the Feoffor and his Heirs: This

M 2

Trust

Trust is not executed by the Statute, but remains as it did before at common Law, and is determinable only in Equity, notwithstanding the Words of the Statute are, *To the Use, Confidence, or Trust of any other Person*. And thus Trusts are of late sprung up in the Room of Uses, and the Design of the Statute of the 27th of H. 8. is in a manner eluded. Lands may be conveyed in *Trust*, Creditors defrauded, &c. as was complained of before this Statute, as effectually to all Intents and Purposes, as if no such Statute had ever been made.

And if a Lessee for Years, assigns his Estate to certain Persons, to the Use of himself and his Wife, all the Estate is in the Assignees, and the Grantor has but a Use, for which he has a Remedy only in Equity. And one may still have Goods and Chattels Personal in Trust, for the Use of another. But if a Feoffment be made to the Use of *A.* and *B.* for Years, this is executed by the Statute.

Copyhold Lands are out of the Statute, because the transferring the Possession by the Operation of the Statute, without Allowance of the Lord and Agreement of the Tenant, would tend to the Prejudice of the Lord and Tenant. *Coke's Compl. Copyholder. Sect. 54.*

A new Use may arise, if there be no intervenient Act to destroy it.

Trespass after Verdict, *Coke Attorney*, moved in arrest of Judgment. The Case upon the Pleading was, That one made a Feoffment, and it was declared by the Indenture, That it should be to the Use of himself, and *A.* his Feme, that should be after their Marriage, and of the Heirs of their Bodies, and he took *A.* to Feme; whether she should take by the Limitation of this Use, was the Question, and he moved that she should not; for presently, by this Feoffment, the Fee is in the Baron by the Possession, executed to the Use which he had before Marriage, which cannot after the Marriage, be divided and made an Estate Tail in him: For he had the Fee in him until the Marriage, for it might have been that the Marriage had never taken Effect, and that would have confounded the other Use. And Uses *in futuro*, shall not rise

rise upon such future Acts, for then an Use should rise out of an Use. But all the Justices held, That altho' he be seised in Fee in the mean Time, as in Truth he is, yet by the Marriage, the new Use shall arise and vest, if there be no Act in the mean Time to destroy that future Use, (as it was in *Cudleigh's Case*) according to the Limitation of the Use, and Judgment was given accordingly for the Plaintiff. *Woodliff in Drury. Cro. Eliz. 439.*

Ejectione Firme; upon a Special Verdict the Case Limitation was such, Sir Henry Winston, by Indenture, cove- of a Use to nanted, in Consideration of natural Love and Af- his Son, and fection to *William Winston* his eldest Son, to stand seised to such Feme to the Use of *William Winston* for Life, and after to the as he should Use of such a Feme as he afterwards should marry, cho' marry, for Life, Remainder to the first Son of the no Feme na- said *William Winston*, in Tail: Afterward the said med, held *William Winston*, being unthrifty, and in *Glocester* good and re- coverable. Goal, Sir *Henry Winston*, to disturb the rising of the Use to the Feme, whom afterwards he should marry, let that Land to his younger Son for a Thousand Years: Afterwards *William Winston* took to Wife the Jaylor's Daughter, and died without Issue, and whether this Lease was good against her, was the Question. *Hutton*, Serjeant for the Defendant, held, First, That no Use at all did rise to the Feme, although no Lease had been made, for the Consideration being Special, in *Consideration of Affection to his Son, to stand seised to the Use of, &c.* That being only for Blood, and in that special Manner, cannot extend to the Feme whom he afterwards should marry, for she is a Stranger to that Consideration; but if it had been in Consideration of such a Marriage with a Feme in certain, it had been good, and in Proof hereof he relied upon *Mildmay's Case*, and upon *Wiseman's Case*. Secondly, Admitting the Use would rise, yet it being a future Use, and an Estate in Contingency, this Lease being made before the Use arose, and the Estate vested, is good, and shall charge the future Estate; therefore it has been ruled in *one Bell's Case*, where one made a Feoffment, or Covenanted to stand seised to the Use of himself

for Life, and after to his first Son, and before the Birth of his first Son, made a Feoffment that should destroy his Estate; so this Lease for Years being made upon a Consideration before the Estate did arise (being but an Estate in Possibility) it shall Bar the arising of that Estate, or at least shall be a good Bar for that Time, against that Estate which was but an Estate in Possibility at the Time of the Lease made: And so was the Opinion conceived in the Case of *Wood and Reynolds*; wherefore, &c. But all the Court resolved for the Plaintiff, First, That this was a good Use, for the Consideration extends to the Feme which should be, as if it had been in Consideration of Marriage, for the Love and Affection of the Son extends as well to the Feme of the Son (who is *quasi* Part of the Son) as to the Son himself; for that by Intendment is good Cause of the Son's Advancement, which is the Reason that at the Common Law the Son might endow his Feme *ex assensu patris*, and a Man may give Lands in Frank Marriage, before the Marriage, for his Affection is the Cause of the Gift, wherefore the Use here is well limited. Secondly, That this Lease shall not bind the Estate of the Feme, because there was a good Estate by the first Limitation, which if it be not destroyed, cannot be charged or incumbered after it is raised, because it hath Relation to the first Covenant, and none hath Interest to charge it; and this Lease shall not destroy it, but may well be construed to arise out of the Reversion which Sir *Henry Winston* hath, and may lawfully charge; wherefore it was adjudged for the Plaintiff. *Bould and others, against Sir Henry Winston. Hill. 4 Jac. Cro. Jac. 168.*

Contingent
Uses, by what
Acts they
may be de-
stroyed.

Upon a special Verdict in the Exchequer was this Case tried. A Man seised of Land in Fee, conveys it by Feoffment to the Use of himself and Wife, and to the Heirs of the Survivor of them. The Husband afterwards makes a Feoffment of this Land, and dies, the Wife enters, and infeofs a Stranger, and dies: The Question was, Whether by the Wife's Entry the Fee shall rest in her surviving, so as her Issue shall enjoy it? And it was adjudged

adjudged, That this Feoffment of the Husband's hath destroyed this future contingent Use of the Fee; for whatsoever cannot accrue at the Time of the Death of the Party who first dieth, cannot afterwards by any Act, be revived, but is absolutely extinguished. And a Writ of Error being brought in the Exchequer-Chamber before the Lord Keeper and Lord Treasurer of *England*, being both of them Lawyers, and before the two Chief Justices *Hide* and *Richardson*, and before *Walter*, Chief Baron, this Judgment was this Term affirmed, as the said Chief Baron related unto me. *Bigot versus Smith*, Hill. 3 Car. Cro. Car.

73.

Husband seised in Right of his Wife, Husband and Wife covenant to levy a Fine to the Use of the Heirs of the Body of the Husband on the Wife begotten, Remainder to the Husband in Fee. They have Issue, the Wife dies, the Issue dies, and the Husband dies, and now the Question in Ejectment was, Whether the Heir of Husband, or Heir of the Wife would have the Lands? *Et per Cur'.*

First, Here can be no Estate for Life to the Husband by Implication, because the Estate was the Wife's, to which he is a Stranger.

Secondly, This Limitation to the Heirs of the Body of the Husband, &c. was merely void; for taking it as a Remainder, there is no precedent Estate of Freehold to support it; and taking it as a springing Use, then it is a springing, executory Use, to arise after a dying without Issue, which the Law will not accept; so that it is either Way void, and yet must be one of them: But in this Case the Chief Justice held, That a Feoffment to the Use of *A.* and his Heirs, to commence four Years from thence, was good as a springing Use, and that the whole Estate remained in the Feoffor in the mean time; so it is if it were to commence after the Death of *A.* without Issue, if he die without Issue within twenty Years. *Dacres versus Speed*, Hill. 3 W. & M. B. R. Salk. 675.

Devise to Trustees and their Heirs, on Trust to permit *A.* to take the Profits for his Life, and afterwards to stand seised to the Use of the Heirs of *A.*'s Body, is a Use in *A.* and he has a Tail.

Whatever was or would have been a Trust at Common Law, is, since the Statute, a Use executed.

Lease and Release by *A.* to Trustees and their Heirs, to the Use of *A.* for 99 Years, Remainder to the Use of Trustees for 25 Years, Remainder to the Heirs Male of *A.*'s Body, Remainder to the Heirs Male is void, for want of a Freehold.

One seised of Lands in Fee, devised them to Trustees, and their Heirs, to the Uses, Intents and Purposes herein after mentioned, viz. To the Intent and Purpose to permit *A.* to receive the Rents and Profits for his Life, and after that, the Trustees should stand seised of the Premises, to the Use of the Heirs of the Body of *A.* with a Proviso, That *A.* with the Consent of his Trustees, might make a Jointure for his Wife; and the Question was, Whether *A.* had an Estate Tail executed, or not? And it was adjudged he had. *Holt, C. J.* pronounced the Judgment of the Court, and gave these Reasons:

First, That this would have been a plain Trust at Common Law, and what at Common Law was a Trust of a Freehold or Inheritance, is executed by the Statute, which mentions the Word *Trust* as well as *Use*; and the Case in 2 *Vent.* 312. *Burchet* and *Dardant*, is not Law, and that the Change of Expression in the principal Case, by using the Word *permit* in the first Clause, which are Words of Trust, and afterwards making mention of a Use, is immaterial, in regard Trusts at Common Law and Uses are equally executed by the Statute.

Secondly, 'twas held, That a Power to make a Jointure does not necessarily exclude an Estate in Tail, or an Intent to give it, because Tenant in Tail, without discontinuing or barring the Tail, cannot make a Jointure, and so this Power has its Use. *Broughton versus Langley, Hill. 1 Ann. B. R. Salk. 679.*

In a *Scire Facias* on a Judgment against Terte-nants, it was found by special Verdict, That one *Savage* being seised in Fee, conveyed by Lease and Release to Trustees, and their Heirs, to the Use of himself for Ninety nine Years, Remainder to the Use of the Trustees for Twenty five Years, Remainder to the Heirs Male of his own Body, Remainder to his own right Heirs. The Question was, Whether *Savage* was Tenant in Tail, or only Tenant for Years; and the Court held the Limitation to the Heirs Male of the Body to be void, because there was no preceding Estate

of

of Freehold limited to support it; and it shall not be implied contrary to the Intent of the Conveyance; and if it could be implied, it must be out of the Estate given to the Heirs of the Body, which cannot be, because this is a new Use; whereas a resulting Use is always from the old Estate, and Parcel of the old Use, and here the Estate takes Effect by Transmutation of Possession out of the Seisin of the Trustees; and not like *Fenwick* and *Milford's Case*, where the Owner covenanted to stand seised to the Heirs of his Body: And yet *per Powell*. Even in that Case, if there had been an express Estate limited to the Covenantor, it had been otherwise. *Adams versus Tertenants of Savage. Hill. 1 Ann. B. R. Salk. 679.*

Trustees appointed to preserve contingent Re-Trustees join mainders, did join in a Conveyance to destroy the to bar a contingent Remainder before a Son was born; and this was decreed a plain Breach of Trust, and that whoever claimed under this Conveyance, having Notice of the Trust, or by a voluntary Settlement, should be liable to make good the Estates. *Per Harcourt, Lord Keeper. Pye versus George. Mich. 9. Ann. In Com. Salk. 680.*

A Covenant to stand seised to the Use of himself for Life, Remainder over, with a Power to let Leases for forty Years, to Persons who are Strangers; this is not good as to the Strangers, because they are not privy to the Consideration; but if it had been to make Leases to any of his Children or Kindred, it had been good. *3 Salk. 385.*

In a Covenant to stand seised, the Word *Covenant* is but declaratory; therefore, if the Father, by Deed, sets forth, That he stands seised to the Use of his Son, and doth not *Covenant* to stand seised, yet it is a good Covenant.

In a special Verdict in Ejectment, the only Point was, Whether a Lease for a Year, made upon no other Consideration than the Reservation of a Pepper-Corn, shall operate as a Bargain and Sale, and make the Lessee capable to take a Release: *Et per Curiam*, it shall, for the Reservation of a Pepper-Corn, is a sufficient Consideration to raise an Use. *3 Salk. 387.*

Weights

Weights and Measures.

Magna Char-
14, c. 25.

One Weight
and one Mea-
sure.

14 Ed. 3.
c. 12.

Standards
sent to every
County.

25 Ed. 3.
c. 10

Bushel not
heaped.

27 Ed. 3. c. 10,
Balances.

34 Ed. 3. c. 5.
Aunsel
Weight abo-
lished.

13 Rich. 2.
c. 9.

Lancashire.

8 H. 6. c. 5.
Weights and
Measures to
be sealed.

Forfeitures
for not keep-
ing Standard
Weights.

11 Hen. 6. c. 8.
Common
Bushel and
Weights.

THERE shall be but one Weight and one Measure of Corn, Wine, Beer and Ale, and one Yard throughout the Realm. *Stat. Magna Charta, 9 Hen. 3. cap. 25.*

The Statute of *Magna Charta* is confirmed, and it is further enacted, That the Treasurer shall cause certain Standards of Bushels, Gallons, and Aunsel Weights, to be made and sent into every County where there are none, and two Persons shall be appointed in each County, to survey the Measures and Weights, and see that they are according to the Standard. *Stat. 14 Ed. 3. cap. 12.*

Gallons, Bushels, Pecks, Pottles and Quarts, shall be according to the King's Standard, and every Measure of Corn shall be stricken, without Heap. 25 Ed. 3. cap. 10.

There shall be one Weight, one Measure, and one Yard through all the Land, and Wooll, and all Manner of *Averdupois* shall be weighed by the Balance, so that the Balance be even, not inclining to the one Side or the other, on Pain of one Year's Imprisonment, and Fine to the King, and quadruple Damages to the Party grieved.

Aunsel Weight is hereby abolished, and all Weights shall be by an even Balance: The Sack of Wooll shall weigh Twenty-six Stone, and every Stone Fourteen Pounds. 34 Ed. 3. cap. 5.

There shall be but one Weight and one Measure, except in the County of *Lancaster*, where they have always used greater Measure than in other Parts. 13 Rich. 2. cap. 9.

The abovesaid Statutes are confirmed, and it is enacted That in every City, Borough, and Town, there shall be provided a common Balance, and common Weights sealed according to the Standard in the Exchequer, at the Costs of the City, Town, &c. where every Inhabitant may weigh *Gratis*, and Foreigners shall pay a Farthing for every 40 *l.* &c. and no Man shall use Weight or Measure which is not sealed according to the Standard. And Justices of Peace, Mayors, Bailiffs and Stewards of Franchises, are empowered to put this Statute in Execution. Every City which has not a common Balance and Weights, to forfeit 10 *l.* a Borough 5 *l.* and every Town 40 *s.* *Stat. 8 Hen. 6. cap. 6.*

In every City, Borough and Town, there shall be common sealed Bushel, according to the Standard, and common Balance, and all Mayors, Bailiffs, and Justices

of Peace, are authorised to put the Statutes in Execution relating to Weights and Measures. 11 Hen. 6. cap. 8.

It is enacted, That one of every Weight and Measure 11 H. 7. c. 4. made of Brass, according to the Standard, be delivered Weights and to the Knights, Citizens, Burgeses, and Barons of the Measures de-Cinque-Ports, assembled in Parliament, to be conveyed livered to to the respective Cities and Boroughs in the Act men- the Members tioned, there to be kept by the respective Mayors, or of Parlia- other Head Officers: And that all other Cities, Boroughs, ment, and Market-Towns, provide themselves with Weights and Measures agreeable to this Standard, to be marked by the Officer in whose Hands the Standard remains, who is Officer to seal empowered likewise to mark Weights and Measures for Weights and the rest of the King's Subjects, taking for the Marking Measures, a Bushel one Penny. And no Person in any City or Marker-Town, shall buy or sell by any Weight or Measure but what is marked; and those out of Market-Towns shall have Weights and Measures of the same Content, and all Persons, as well within Market-Towns as without, shall sell by a sealed Bushel. And all Mayors and other Head Officers, in Boroughs and Market-Towns, shall twice a Year cause all Weights and Measures to be brought before them and viewed, and such as are defective shall And view be broken and burnt, and the Offender having such de- them twice a fective Weight or Measure, shall forfeit six Shillings and Year. eight Pence for the first Offence, second Offence thirteen Shillings and four Pence, and for the third Offence twenty Shillings, and be set in the Pillory: And two Justices Quor' Un. may enquire as well of the Defaults of Mayors, &c. as of those who buy and sell contrary to this Act, and fine and amerce the Offenders: And there shall be Contents of but Eight Bushels stricken, to the Quarter of Corn, the Measures Fourteen Pounds to the Stone of Wooll, and Twenty-six and Weights. Stone to the Sack. Provided that this Act do not extend to Water Measure on Shipboard, and that the said Water-Measure be only five Pecks stricken. Stat. 11 Hen. 7. cap. 4.

Every Bushel shall contain Eight Gallons of Wheat, 12 H. 7. c. 5. and every Gallon Eight Pound of Wheat Troy Weight, and Contents. every Pound twelve Ounces Troy-Weight, and every Ounce 20 Sterlings, and every Sterling 32 Corns of Wheat taken out of the midst of the Ear, according to the old Law. 12 H. c. 5.

Coals brought into the River Thames, shall be sold by 16 & 17 Car. the Chaldron, containing 36 Bushels heaped, and Scots 2. c. 2. Coal, and other Coal sold by Weight, shall be sold after Coal Measure. the Rate of 112 Pound to the Hundred Averdupois-Weight. 16 & 17 Car. 2. cap. 2.

There

17 Car. 1.
c. 19.

No heaped
Measure.
Forfeiture
for not hav-
ing Standard
Weights and
Measures.

There shall be but one Weight, one Measure, and one Yard, according to the Standard, throughout the Realm, and every Measure of Corn shall be stricken without Heap, and whoever shall use any other Weight or Measure, shall forfeit Five Shillings for every Offence, upon the Oath of one Witness, before a Justice of Peace, Mayor, or Head Officer of any City, or Town Corporate, to be levied by the Church Wardens and Overseers of the Poor of the Parish where the Offence shall be committed, to the Use of the Poor, by Distress and Sale of the Offender's Goods and Chattels, and in Default of a Distress, the Offender to be committed until he pay the Sum forfeited. 17 Car. 1. cap. 19.

Clerk of the
Market.

And no Clerk of the Market of the King's House, or of the Prince's, who shall be Duke of Cornwall, shall execute his Office in any Part of the Kingdom, but within the Verge of the King's Court where he shall then reside; and it shall be lawful for the Mayor, or other Head Officer of any City, Borough, or Town Corporate, or any Lord of a Liberty or Franchise, to execute the said Offices, as they might before this Act. *Ib.*

Pain of al-
lowing ille-
gal Weights
and Measures.

And if any Clerk of the Market within the Verge, or any Mayor or other Officer, who is hereby empowered to enquire of any Abuses in Weights or Measures, shall allow any Weight or Measure, which is not according to the Standard of the Exchequer, or refuse to seal or allow such Weight or Measure as is according to the Standard, upon Payment of his lawful Fees for such Allowance, then the said Clerk of the Market, Mayor, or other Officer, shall forfeit Five Pounds for every such Offence, to the Use of the Poor of the Parish, or shall be committed. *Ib.*

And of ex-
torting Fines
or Fees.

And if the Clerk of the Market, his Deputies or Agents within the Verge, or any Mayor or other Officer, or any Lord of a Liberty, his Deputies or Agents, shall by Colour of their Offices, take or receive any Fine or Fees which are not allowed by Statute or ancient Custom, for the Signing or Examination of any Weights and Measures, or shall impose any Fine or Amercement, without due Trial for the same; or shall otherwise mis demean himself in the Execution of his Office, he shall forfeit for the first Offence Five Pounds, for the second Ten Pounds, and for the third, and every other Offence, Twenty Pounds, to be levied as aforesaid, to the Use of the Poor where the Offences shall be committed. *Ib.*

Water Mea-
sure still to
be allowed.

Provided that such Measure as is commonly called Water Measure, in any Ports, Maritime Towns, or other Places, shall be still used as formerly. *Ib.*

The

The Clause relating to Water Measure, in the last men- 22 Car. 2.
tioned Act, so far as it relates to Corn and Salt, is re- c. 8.
pealed, and if any Person shall sell Corn or Grain, ground Corn and Sale
or unground, or Salt by any other Bushel than *Winchester* not to be
Measure, containing eight Gallons, stricken and sealed, measured by
he shall forfeit Forty Shillings, to be levied as Forfeitures Water Mea-
by the said Act of 17 Car. 1. c. 1. are directed to be le- sure.
vied. 22 Car. 2. c. 8.

And if any Mayor, or Head Officer, shall wilfully Pain of 40 s.
permit the selling by any other Measure, or upon Com- for not giv-
plaint shall not punish the Offence, he shall forfeit Five ing *Winchester*
Pounds, to be recovered by Presentment or Indictment, Measure.
at the General Quarter-Sessions of the County, to be di- Pain of 5 l.
vided between the Poor and the Informer, to be levied if the Offi-
by Distress and Sale, and for want of a Distress, shall be cer neglect
committed till Payment. *Ib.* his Duty.

And if any Clerk of the Market shall refuse to seal Pain for not
any Bushel, half Bushel, or Peck, duly gaged, he shall sealing Mea-
forfeit for the first Offence Five Pounds, and for the se- sures.
cond, and every other Offence, Ten Pounds, to be levied
as aforesaid. *Ib.*

And if any Clerk of the Market within the Verge, Fees allowed.
shall take more than his lawful Fees, or if any other Per-
son shall take above a Penny for the Sealing a Bushel, an
Half-penny for an Half Bushel or Peck, and a Farthing
for a Gallon, Pottle, Quart, Pint or half Pint, he shall
incur the Pains of the last mentioned Act. *Ib.*

Every Person who hath the Toll and Profit of a Mar- Brass Stan-
ket, shall provide a Measure of Brass to be chain'd in dard to be
the Market-Place, or forfeit Five Pounds, to be divided provided.
between the Poor and the Informer. *Ib.*

Every Constable shall search and examine if any other Constables to
Measures are used or stricken, in any other Manner than search and
the aforesaid Act directs, or if any Person buy and sell present Of-
by unsealed Measures, and if he find any such, to break fences.
them, and present the said Offences at the next Private
or Quarterly Sessions. *Ib.*

None shall buy Corn or Salt by the Bag, or unmeasured, Salt Measure.
or in any other Manner than this Act directs, and that
without shaking the Bushel, on Pain of forfeiting the Sale
so sold, or the Value thereof, and being liable to the
Pains of the aforesaid Act. *Ib.*

And upon any Complaint to a Justice of Peace, That
Corn or Salt has been sold contrary to this Act, the Proof
shall lie on the Defendant, who must make it appear by
one Witness, That he bought the same according to the
Act, or incur the Forfeiture by the former Act directed

to

to be levied by Distress and Sale, and divided between the Poor and the Informer. *16.*

Who shall seal Measures. Where there is no Clerk of the Market, the Head Officer, or Person having the Profit of the Market, is authorized to seal Measures. *16.*

2 W. & M. Sess. 2. c. 14. If any Person shall utter by Retale, in Glass-Bottles or any other Retale Measure; not made of Pewter, and lawfully sealed, any Wines or other Liquors, and shall be convicted thereof by the Oaths of two Witnesses, before one Justice of Peace, he shall forfeit Fifty Shillings for every such Offence; to be levied by Distress and Sale, to the Use of the Informer, and in Default of a Distress the Offender shall be committed 'till Payment, Prosecution to be within Thirty Days after the Offence. *Stat. 2 W. & M. Sess. 2. c. 14.*

9 & 10 W. 3. c. 6. No Retailer of Salt, or any Person making Salt, or buying to sell again, shall dispose of any Salt, otherwise than by Weight, after the Rate of Fifty Six Pound Weight to the Bushel, and not by Measure, or in any other Manner, on Pain of Five Pounds, being convicted by two Witnesses, before two Justices of Peace, to be levied by Warrant of the said Justices, by Distress and Sale; and for want of a Distress, the Offender to be committed 'till Satisfaction made. *Stat. 9 & 10 W. 3. c. 6.*

11 & 12 W. 3. c. 15. Persons retailing Beer or Ale, shall sell them by a full Ale Quart or Pint; according to the Standard; on Pain of forfeiting a Sum not exceeding Forty Shillings, or less than Ten Shillings. *11 & 12 W. 3. c. 15. See Title Ale-houses.*

13 W. 3. c. 5. Every round Bushel, with a plain and even Bottom made Eighteen Inches and a half wide throughout, and Eight Inches deep, shall be deemed a legal Winchester Bushel. *Stat. 13 & 14 W. 3. c. 5.*

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A Table of the ASSIZE of BREAD,

In Pounds, Ounces, and Drams, *Averdupois* Weight.

EXPLANATION:

In the First and Last Columns is the Price of the Bushel of Wheat, from 2 s. to 15 s. the Bushel, the Allowance of the Magistrates to the Baker for Baking being included: And in the other Columns is the Weight of the several Loaves: So that (for Example) if the Price of Wheat is 5 s. the Bushel, and the Magistrates allow 1 s. 6 d. the Bushel to the Baker for Baking, then even with 6 s. 6 d. in the First or Last Column, will be found the Weight of the several Loaves: But if the Price is 3 s. the Bushel, and the Allowance 1 s. then the Weight of the said Loaves will be found even with 4 s.

NOTE, That the White Loaves are One Half, and the Wheaten Three Quarters of the Weight of Household Loaves.

The Price of the Bushel of Wheat, and Baking		Small Bread.												Larger Bread.												The Price of the Bushel of Wheat, and Baking		
		The Penny Loaf.			Two-Penny Loaf.						Six Penny Loaf.			Twelve Penny Loaf.			Eighteen Penny Loaf											
		White.	Wheaten	Household	White.	Wheaten.	Household.	White.	Wheaten.	Household.	White.	Wheaten.	Household.	White.	Wheaten.	Household.												
1	2	Ounces.	Drams.	Ounces.	Drams.	Pounds.	Ounces.	Drams.	Pounds.	Ounces.	Drams.	Pounds.	Ounces.	Drams.	Pounds.	Ounces.	Drams.	Pounds.	Ounces.	Drams.	Pounds.	Ounces.	Drams.	Pounds.	1	2		
2	1	23	3	34	12	46	5	2	14	5	4	5	8	13	1	26	1	2	34	12	2	3	39	1	10	52	2	3
2	2	20	10	30	14	41	3	2	9	3	3	13	13	11	6	15	7	3	34	12	2	46	5	8	2	2	3	
2	3	18	9	27	13	37	1	2	5	1	3	7	10	9	4	10	13	7	31	4	8	41	11	6	2	2	6	
2	4	16	14	25	4	33	11	2	1	11	3	2	9	11	5	18	15	4	28	7	1	37	14	11	2	2	1	
3	1	15	7	23	3	30	14	2	14	14	2	14	5	11	6	17	6	1	26	1	1	34	12	2	3	3	1	
3	2	14	4	21	6	28	8	1	12	8	2	10	12	10	7	16	11	2	24	1	1	32	1	6	3	3	2	
3	3	13	4	19	14	26	8	1	10	8	2	7	12	9	4	14	14	5	22	5	8	29	12	11	3	3	3	
3	4	12	6	18	9	24	11	1	8	11	2	5	1	8	5	13	14	10	20	13	11	27	12	14	4	4	4	
4	1	11	9	17	6	23	3	1	7	3	2	2	12	7	6	12	4	1	19	8	13	26	1	1	4	4	5	
4	2	10	14	16	6	21	13	1	5	13	2	1	11	6	5	11	4	2	18	6	7	24	8	9	5	5	6	
4	3	9	5	15	7	20	10	1	4	10	1	14	14	5	3	10	3	3	17	6	1	23	2	12	6	6	7	
4	4	9	12	14	10	19	8	1	3	8	1	13	4	4	3	9	3	4	16	7	7	21	15	4	7	7	8	
5	1	9	4	13	14	18	9	1	2	9	1	11	13	4	3	8	4	5	15	10	4	20	13	11	8	8	9	
5	2	8	13	13	4	17	10	1	1	10	1	10	8	4	2	7	13	3	14	14	5	19	13	13	9	9	10	
5	3	8	7	12	10	16	14	1	1	14	1	9	4	3	1	12	10	4	14	3	8	18	15	5	10	10	11	
5	4	8	1	12	1	16	2	1	1	2	1	8	3	2	1	11	7	6	13	9	10	18	2	2	11	11	12	
5	5	7	12	11	9	15	7	1	15	7	1	7	3	3	1	10	9	6	12	8	9	17	6	1	12	12	13	
6	1	7	7	11	2	14	13	1	14	13	1	6	4	4	1	9	8	1	11	7	11	16	10	15	13	13	14	
6	2	7	2	10	11	14	4	1	14	4	1	5	6	5	2	8	5	2	10	6	13	16	1	11	14	14	15	
6	3	6	14	10	5	13	12	1	13	12	1	4	10	6	3	7	4	3	11	9	6	15	7	3	15	15	16	
7	1	6	10	9	15	13	4	1	13	4	1	3	14	7	4	6	3	4	11	2	12	14	14	5	16	16	17	
7	2	6	6	9	9	12	13	1	12	13	1	3	3	4	3	5	4	5	10	3	9	14	6	2	17	17	18	
7	3	6	3	9	4	12	6	1	12	6	1	2	9	4	2	4	10	2	9	6	13	13	14	7	18	18	19	
7	4	6	1	9	11	11	15	1	11	15	1	1	15	5	1	3	13	8	10	1	7	13	7	4	19	19	20	
8	1	5	13	8	11	11	9	1	11	9	1	1	6	6	2	2	12	1	9	12	7	13	1	9	20	20	21	
8	2	5	10	8	7	11	4	1	11	4	1	1	14	5	1	11	9	6	9	7	11	12	10	4	21	21	22	
8	3	5	7	8	3	10	14	1	10	14	1	1	6	4	1	10	8	2	8	3	3	12	4	4	22	22	23	
8	4	5	5	7	15	10	9	1	10	9	1	15	14	5	2	9	7	15	7	15	1	11	14	11	23	23	24	
9	1	5	2	7	12	10	5	1	10	5	1	10	7	1	4	1	11	9	8	11	4	11	9	6	24	24	25	
9	2	5	1	7	8	10	1	1	10	1	1	15	1	5	2	1	10	3	9	7	4	10	4	6	25	25	26	
9	3	4	14	7	5	9	12	1	14	10	1	14	10	6	3	2	9	4	8	3	11	10	15	10	26	26	27	
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10	1	4	10	6	15	9	4	1	13	14	1	13	14	6	3	2	9	4	6	10	1	10	2	12	28	28	29	
10	2	4	8	6	13	9	1	1	13	9	1	13	9	4	1	1	10	1	9	14	3	9	14	14	29	29	30	
10	3	4	7	6	10	8	13	1	13	4	1	13	4	4	15	7	6	9	7	7	3	9	14	14	30	30	31	
10	4	4	5	6	7	8	10	1	12	15	1	12	15	4	13	10	6	7	7	4	6	9	11	3	31	31	32	
11	1	4	3	6	5	8	7	1	12	10	1	12	10	4	11	13	6	5	7	1	12	9	7	11	32	32	33	
11	2	4	2	6	3	8	4	1	12	6	1	12	6	4	10	2	6	2	7	13	2	10	6	13	33	33	34	
11	3	4	1	6	1	8	1	1	12	1	1	12	1	3	1	6	1	11	6	15	4	9	4	5	34	34	35	
11	4	3	15	5	15	7	14	1	11	13	1	11	13	4	7	1	5	14	11	6	10	8	8	14	35	35	36	
12	1	3	14	5	13	7	12	1	11	9	1	11	9	4	5	8	5	12	11	6	8	4	8	11	1	36	36	37
12	2	3	13	5	11	7	9	1	11	6	1	11	6	4	4	2	5	10	13	6	6	2	8	8	3	37	37	38
12	3	3	11	5	9	7	7	1	11	2	1	11	2	4	2	12	5	9	1	6	4	2	8	5	8	38	38	39
12	4	3	10	5	7	7	4	1	11	4	1	11	4	4	1	7	5	7	4	6	2	2	8	2	14	39	39	40
13	1	3	9	5	6	7	2	1	11	11	1	11	11	4	1	3	5	5	9	6	1	4	8	1	5	40	40	41
13	2	3	8	5	4	7	1	1	10	8	1	10	8	3	14	15	5	3	15	5	14	7	7	13	15	41	41	42
13	3	3	7	5	2	6	14	1	10	5	1	10	5	3	13	13	5	2	6	5	12	11	7	11	9	42	42	43
13	4	3	6	5	1	6	12	1	10	2	1	10	2	3	12	11	4	15	7	5	9	6	7	7	3	43	43	44
14	1	3	5	4	15	6	10	1	9	15	1	9	15	3	11	9	4	14	1	5	7	13	7	5	1	44	44	45
14	2	3	4	4	14	6	8	1	9	12	1	9	12	3	10	9	4	12	11	5	6	5	7	3	1	45	45	46
14	3	3	3	4	13	6	6	1	9	9	1	9	9	3	9	8	4	11	7	5	4	13	7	1	2	46	46	47
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Half
Quar

Every Coal Bushel shall be made round, with a plain 12 A. c. 17. and even Bottom, and be Nineteen Inches and a half Coal Bushel. from Outside to Outside, and contain one Winchester Bushel, and one Quart of Water, according to the Standard described in the 13th of W. 3. c. 5. And all Sea-Coals and Culm shall be sold by the Chaldron, containing Thirty Chaldron. Six such Bushels heaped, and so in Proportion. Stat. 12 A. c. 17.

Notwithstanding it is provided by Magna Charta, and many subsequent Statutes, That there be but one Weight and one of Weights Measure thro' the Realm, this is evidently to be understood and Measures of the same Species of Goods, for it appears by several Statutes, That some Kinds of Goods have been weighed by Troy, always allowed. and others by Averdupois Weight; and some Things have been measured by Land, and others by Water Measure, for many Hundred Years; and these several Weights and Measures are taken Notice of and allowed in the said Statutes, and consequently equally legal.

Troy Weight contains Twelve Ounces to the Pound, Troy Weight. and no more, by which are weighed Gold, Silver, Pearl, Precious Stones, Silks, Electuaries.

Wheat and Grain, Averdupois; (Aver du Poids) to have Averdupois Weight, hath Sixteen Ounces to the Pound, and is confirmed by the 27th of Ed. 3. c. 10. by which are weighed all Grocery Wares, and all Commodities which want Garbling or Cleaning, and wherein there may be any Refuse or Waste. Here Twelve Poundsover are allowed to every Hundred, so as One Hundred and Twelve Pounds makes a Hundred Weight, Fifty Six Pounds make Half a Hundred, and Twenty Eight Pounds make a Quarter.

TABLE

*TABLE of Weights and Measures, taken
from Mr. Dalton, Chap. 112.*

Measure of Corn, accord- ing to <i>Aver-</i> <i>dupois</i> Weighr.	<i>Averdupois</i> Weight.	14 Ounces and a half, and Two-Penny Weight Troy, do make 16 Ounces of <i>Averdupois</i> .	
		7 { Pounds or Pints }	<i>Averdupois</i> , make the Gallon.
		14 { Pounds or Pints }	<i>Averdupois</i> , make the Peck.
		65 { Pounds or Pints }	<i>Averdupois</i> , make the Bushel.

Measure of Grain, accord- ing to <i>Troy</i>	<i>Troy</i> Weight.	Pints or Pounds	5120	512	256	64	16	8
		Quarts	2560	256	128	32	8	4
		Pottles	1280	128	64	16	4	2
		Gallons	640	64	32	8	2	1
		Pecks	320	32	16	4	1	
		Bushels	80	8	2	1		
		Coombs	20	2	1			
		Quarters	10	1				
								Ten Quarters of Corn is a Last

Beer Measure.

Ale Measure.

Measures of Beer and Ale.	Pints	288	144	72	8	4	2	256	128	64	8
	Quarts	144	72	36	4	2	1	128	64	32	4
	Pottles	72	36	18	2	1		64	32	16	2
	Gallons	36	18	9	1			32	16	8	1
	Firkins	4	2	1				4	2	1	
	Kilderkins	2	1					2	1		
	Barrel	1						1			

See for Corn, Beer and Ale, more fully, in
that which followeth.

Thirty two Wheat Corns, taken in the midft of the	12 H 7.
Ear, weigheth one Penny Sterling.	15 & 51 H. 3.
Twenty Pence Sterling maketh the Ounce Troy.	
Twelve Ounces maketh in {	Weight one Pound Troy.
	Measure one Pint.
Two Pints or Pounds, maketh the Quart.	Measure.
Two Quarts maketh the Pottle.	
Eight Pints {	
Four Quarts {	maketh a Gallon.
Two Pottles {	
Eight maketh the Peck	
Sixty four Pints {	
Thirty two Quarts {	maketh the { Bushel
Eight Gallons {	or
Four Pecks {	Firkin
Sixteen Gallons {	
Two Firkins {	maketh the { Kilderkin.
	Half Barrel.
	Rondlet
Two hundred fifty fix Pints {	
One hundred twenty eight Quarts {	maketh the { Coomb
Thirty two Gallons {	or
Four Firkins {	Barrel.
Two Kilderkins {	
Four Bushels {	
Five hundred and twelve Pints {	
Two hundred fifty fix Quarts {	maketh the { Quarter
Sixty four Gallons {	or
Eight Firkins {	Hoghead.
Four Kilderkins {	
Two Barrels {	
Eight Bushels {	
Pint and Pound {	
Firkin and Bushel {	are of like Content.
Barrel and Coomb {	
Hoghead and Quarter {	

Woolle.

12 Car. 2. c. 2.
No Wooll, &c.
to be export-
ed.

NO Person shall directly or indirectly, export or convey, or cause to be exported or conveyed out of this Kingdom, or from the Isles of *Guernsey* and *Jersey*, or from the Kingdom of *Ireland*, into any Places out of the Kingdoms or Dominions aforesaid, any Sheep or Wooll of the Breed or Growth of the Kingdoms of *England* or *Ireland*, or Isles aforesaid, or any Wooll Fells, Mortlings or Shorlings, or any Yarn made of Wooll, or any Wooll-flocks, or any Fuller's Earth, or Fulling Clay; nor shall pack or load, upon any Horse, Cart, or Carriage, nor load on board any Ship or Vessel within the Dominions aforesaid, any Sheep or Wooll, Wooll Fells, Mortlings, Shorlings, Yarn made of Wooll, Wooll Flocks, Fuller's Earth, or Fulling Clay, to the Intent to export the same out of the Dominions aforesaid, into the Kingdom of *Scotland*, or any Foreign Parts. 12 Car, 2. c. 2.

Jersey.

And no Wooll, Wooll Fells, &c. shall be exported from *England*, *Wales*, *Ireland*, or *Berwick*, to the Isles of *Guernsey* or *Jersey*, except what shall be appointed by this Act. *Ib.*

Pains and
Forfeitures.

And every Offender shall be liable to the Pains hereafter mentioned, viz. The said Sheep, Wools, &c. shall be forfeited, besides Twenty Shillings for every Sheep, and Three Shillings for every Pound of Wooll, Wooll Fells, Mortlings, Shorlings, Yarn, Wooll Flocks, Fuller's Earth, and Fuller's Clay; and the Owners of the Ships or Vessels shall forfeit their Interests in the same, with all the Apparel and Furniture of such Vessels. And the Master knowing of the Offence, shall forfeit all his Goods and Chattels, and be imprisoned for three Months, which said Forfeitures shall be divided between the Crown and the Prosecutor, and may be recovered by Action of Debt, Bill, Plaint, or Information, in any Court of Record, or before Justices of Assize, or at the General Quarter-Sessions of the Peace.

And if any Merchant or other Person, shall transport any Sheep, Wooll, or any of the Goods before mentioned, he shall be disabled to require any Debt or Account, of any Factor or others.

Trial.

Offenders against this Act, may be tried in the Country where such Sheep, Wooll, &c. is loaded or put on Board, or where the Offender shall be apprehended.

Provide

Provided that no Person be prosecuted above one Year after the Offence committed.

And it shall be lawful for any Person to take and feize to his own, and the King's Use, all such Sheep, Wooll, &c. as he shall happen to find or discover to be put on Board any Vessel or Boat, or laid on the Shoar near the Sea, or any Navigable River, to the Intent to be exported, or which shall be packed or loaden upon any Horse, Cart, or Carriage, to the Intent to be conveyed to *Scotland*, and the Person who shall feize such Wooll, &c. shall have one Moiety thereof to his own Use.

Any Person may feize Wooll exporting.

Provided that the Person seizing such Wooll to his own Use, shall not be admitted to give Evidence against any Person indicted upon this Act.

Provided that every Ship, Vessel, or Boat, whereof any Alien or Subject, not inhabiting within the Realm of *England*, shall be Owner, or part Owner, and wherein any Sheep, Wooll, &c. shall be shipped, shall be forfeited to the Crown.

Provided this Act shall not extend to Lamb-Skins ready dressed and prepared for Linings.

Provided also that this Act shall not extend to the transporting or carrying away any such Wooll Fells or Wooll, &c. Pelts, or to any Bed stuffed with Flocks, which shall be carried in any Ship or Vessel for necessary Uses, and which shall not be sold in Foreign Parts; nor to the exporting any Weather Sheep with the Wooll upon them, for the Food of the Ship's Company or Passengers.

used aboard of Ships.

Provided also, that this Act do not extend to any such Wooll as shall be exported from *Southampton*, to the Isles of *Jersey* and *Guernsey*, for the Use of the Inhabitants of those Isles, so as the Person transporting the same, deliver to the Customer of the Port of *Southampton*, a Writing under the Seal of the respective Governors of *Jersey* and *Guernsey*, or their respective Deputies, purporting, That the Party named in such Writings, is authorized to export such Wooll, expressing the Number of Todds to be manufactured in one of the said Isles; and that the Exporter hath entered into Bond to his Majesty's Use, for landing the said Wooll in that Isle, and the Quantity of Wooll to be exported, shall not exceed Two Thousand Todds, to the Isle of *Jersey*, uncombed, and One Thousand to the Isle of *Guernsey*; Two Hundred to *Alderney*, and One Hundred Todds to *Sarke*, every Todd not exceeding Thirty Two Pounds.

Saving for *Jersey*, &c.

And if any of the Governors aforesaid, or their Deputies, shall give Licence for exporting any greater Quantities from *Southampton*, they shall forfeit Twenty Pounds to the Crown for every Tonnage licensed to be exported over and above.

14 Car. 2.
c. 18.

Exporting
Wooll, &c.
made Felony.

Owners of
any Vessel or
Carriage, Ma-
riners, &c.
employed,
guilty of Fe-
lony.

Trial.

Peers.

Wooll or
Yarn not to
be packed or
pressed with
Engines,
or put into
Casks, or car-
ried to the
Coasts, on
Pain of For-
feiture.

If any Person shall directly or indirectly, export or convey from *England, Wales, Berwick, or Ireland*, any Sheep or Wooll whatsoever, of the Breed or Growth of those Places, or any Wooll Fells, Mortlings, Shorlings, Yarn, Wooll Flocks, Fuller's Earth, or Fulling Clay, or pack or load them on any Horse, Cart, or Carriage, or cause them to be put on Board of a Ship or Vessel, to the Intent to export the same, such Offence shall be adjudged Felony. Stat. 14 Car. 2. c. 18.

And the Owner of any Ship or Vessel, or of any Horse, Cart, or Carriage, upon which any such Sheep, Wooll, &c. shall be exported or conveyed as aforesaid, knowing thereof, and being wittingly or willingly aiding, assisting, or consenting thereto; and every Master and Mariner, of any such Ship or Vessel wherein any such Sheep, Wooll, &c. shall be so exported or carried, knowing thereof, and every Factor, Servant, or other Person; and every Customer, Controller, Waiter, or other Officer, knowing thereof, and being wittingly or willingly aiding, assisting, or consenting thereto, shall be adjudged a Felon.

And Offences against this Act may be tried either in the County where such Wooll, &c. shall be packed or laden on Board, or in the County where the Offender is apprehended.

Provided that every Peer shall be tried by his Peers, for any Offences against this Act; and no Person shall be prosecuted for any such Offence, unless he be indicted within one Year after.

And no Person shall press together with Screws, Presses or other Engines, into any Sack, Bag, or other Wrapper, any Wooll or Yarn made of Wooll, or shall put, pack, or press any Wooll, or Yarn made of Wooll, into any Butt, Pipe, Hogthead, Chest, or any other Cask or Vessel, on any Pretence whatsoever, or shall carry or lay near the Coast, or any navigable River, or in any House or Place adjoining thereto, any such Wooll, Wooll Flocks, or Yarn, with Intent to export the same, on Pain of forfeiting of all such Wooll, Wooll Flocks, and Yarn as shall be so packed or pressed, or put into Casks, or laid near the Sea-Shoar, or any navigable River, or the Value thereof.

And whereas great Quantities of Fuller's Earth are daily Tobacco-pipe-exported, under Colour of being Tobacco-Pipe Clay, 'tis clay not to be enacted, That no Tobacco-Pipe Clay shall be exported exported. from England or Ireland, on Pain of forfeiting Three Shillings for every Pound exported.

And no Packs, Bags, or Casks of Wooll, Wooll Fells, Wooll, or Full-Mortlings, Shorlings, Yarn, Wooll-Flocks, Fuller's Earth, ler's Earth, Fulling Clay, or Tobacco-pipe Clay, shall be loaden on carried in the any Horse or Carriage, or be carried by Land, to or from Night, for any Place in the Kingdoms of England or Ireland, but at feited. Reasonable Hours, in the Day-time, viz. from the first of March, to the 29th of September, between Four of the Clock in the Morning, and Eight in the Evening; and from the 29th of September, to the first of March, between Seven in the Morning and Five in the Evening, on Pain of forfeiting such Goods, or the Value thereof, one Moiety of all Forfeitures in this Act, to go to the Crown, and the other to him that will sue for the same, by Action of Debt, Bill, Plaint, or Information, in any Court of Record. *Ib.*

Provided that this Act shall not extend to repeal or disannul any of the Penalties, Clauses, or Proviso's in the last recited Act. *Ib.*

Provided, that if any owner of any Ship or Vessel, Discovery by any Master or Mariner, knowing of the Transporta- a Master or ion of any of the Goods aforesaid, shall within Three Mariner, ex- Months after his Knowledge thereof, or after his Return cuses the Fe- England or Ireland, give the first Information, bona lony. tide, before any of the Barons of the Exchequer, either in England or Ireland, or before the Head Officer of any Port where he shall first arrive, upon his Oath of the Number and Quantity of the Goods exported, he shall not be punished for Felony, but shall remain liable to the other Forfeitures in this Act; and all such Exportation, &c. is hereby declared and adjudged to be a publick nuisance.

Justices of Assize, Justices of Goal Delivery, and Ju- Trial, tices of Peace, in their Quarter-Sessions, shall hear and determine the said Offences; and all Mayors, Bailiffs, and other Head Officers, not having Jurisdiction to try Felony, shall hear and determine all Offences not made Felony by this Act. *Ib.*

All Owners of Wooll, and cheir Agents, who shall car- 1 W. & M. ry, or cause to be carried, any Wooll, to any Port or c. 32, Place on the Sea-Coasts, with an Intention to convey the Wooll carry- me to any other Port or Place on the Sea-Coasts in ing towards England, Wales, or Berwick, from whence the same may be the Sea, to transported into Foreign Parts, such Owner shall, in the be entred at first the next Port.

On Pain of
Forfeiture,
&c.

first Place, cause a due Entry to be made of the said Wooll, at the Port from whence the same is intended to be conveyed, containing the Marks, Weight, and Numbers, before he load or carry any of it within Five Miles of any such Port or Place on the Coasts from whence the same is to be conveyed. And if any Wooll shall be carrying towards the Sea, without being so entred, it shall be forfeited, with the Horses and Carriages conveying the same; and the Persons carrying, driving, aiding or abetting the same, shall suffer and forfeit as by the Statutes against the Exportation of Wooll it is provided. *Stat 1 W. & M. cap. 32.*

Provided that the foregoing Clause do not extend to hinder any Person from carrying his Wooll from the Place of Sheering, to his Dwelling-House, or Out-Houses, though the same be within Five Miles of the Sea, so as such Person, within Ten Days after the Sheering, and before he remove the same from the Place it was first carried to after the Sheering, or disposing of any Part thereof, do under his Hand certify to the Officers of the next Port, the true Quantity of the said Wooll, (*viz.*) the Number of Fleeces, and where the same is housed, and do not remove the said Wooll to any other Place, without certifying the Officer of such Port under his Hand, of his Intention to remove it, Three Days before such Removal, and the Officer is required to register such Certificates. But any Person neglecting to send such Certificate to the Officer of the next Port, shall have no Benefit by this Proviso, but be liable to the Penalties in the foregoing Clause. *Ib.*

Cocquets to
be written on
Paper.

All Cocquets for carrying Wooll from any Port, shall be written on Paper, and not Parchment, and signed by three of the chief Officers of the Port; and all Certificates of Landing the same in any other Port, or from *Ireland*, shall be signed in like Manner; and all such Wooll, both at the Shipping and Landing, shall be weighed in the Presence of the said Officers, giving such Cocquets and Certificates, the Weights, Marks and Number being particularly expressed therein. *Ib.*

And all Officers not observing the Directions in this Act, shall be deemed Aiders and Abettors of the Transportation, and suffer the Pains inflicted on such Offenders. *Ib.*

Towns for
Shipping
Wooll from
Ireland.

No Wooll shall be shipped in *Ireland*, but from the Ports of *Dublin*, *Waterford*, *Youghall*, *Kingsale*, *Cork*, and *Drogheda*, or imported from thence, but to the Ports of *Liverpoole*, *Chester*, *Bristol*, *Minehead*, *Barnstaple*, *Biddisford* and *Exeter*. *Ib.*

And it is farther enacted, That the Right Honourable Sir Thomas Pilkington, Lord Mayor of London, Sir Henry Goodrich, Baronet, &c. Or any Five of them, be authorized to put this and the said other Laws in Execution; and they are impowered by their Agents to be deputed under the Hands and Seals of any Five of them, to seize all Wooll, Wooll Fells, and other Things above-mentioned, endeavoured to be transported, and to prosecute all Persons offending against any of the said Laws. *Ib.*

Provided, That if any Owner, Master, or Mariner of any Vessel, knowing of the Exportation of any Wooll, &c. shall within Three Months after his Knowledge thereof, or return to England or Ireland, give the first Information *bona Fide*, before one of the Barons of the Exchequer in England or Ireland, or before any Three of the above-named Commissioners, or before the Head Officer of the Port where he first arrives, upon Oath, of the Number and Quantity of such Wooll, &c. exported, and by whom, and be ready to prove the same, then such Owner, Master or Mariner shall not be liable to the Pains for exporting Wooll, but be entitled to recover and receive such Advantages as are allowed by the precedent Acts. *Ib.*

Provided that the Powers given the said Commissioners, shall not hinder any Person lawfully authorized, from seizing Wooll, or prosecuting Offenders against these Acts. *Ib.*

And if any Person be prosecuted for what he shall do in Pursuance of this Act, he may enter a common Appearance, and plead the General Issue, and give this Act in Evidence; and if the Prosecutor be Nonsuit, discontinued, &c. the Defendant shall have treble Costs and Damages. *Ib.*

And a Register shall be kept at the Custom-House, Wooll imported London, of all Wooll from Time to Time imported from Ireland, and also of what Wooll is sent from Port to land, registered in this Kingdom, with the Weights and Numbers, stored, and the Ship's, Master's, and Owner's Name, and to whom consigned, that the said Commissioner may inspect the same.

And for Encouragement of the Woollen Manufacture, Encouragement is enacted, That it shall be lawful for any Person to manufacture for export Cloth, Stuffs, Stockings, or other Manufacture of Wooll made in England, and export the same beyond the Seas. *Ib.*

Provided that this shall not be construed to avoid the Charters made to the *Levant*, the *Eastland*, *Russia*, or *African Companies*. *Ib.*

And it is provided, That the same Quantities of Wooll may be exported from *Southampton* to *Fersey*, &c. as were permitted by the former Act, under the same Regulations. And upon the farther Penalty of Twenty Pounds, in case any Person shall again transport, or attempt to transport such Wooll from the said Islands, One Moiety of the said Penalty to go to the Crown, a Fourth to the Informer, and the remaining Fourth to the Poor of the said Islands; and every such Offender shall be incapable of having a Grant of any Wooll from *Southampton*, the Penalty to be recovered by any Person who shall sue for the same, by Action of Debt, Bill, Plaint, or Information. *Ib.*

7 & 8 W. 3. c. 28. The last recited Act of the first of *William* and *Mary*, except what is hereafter altered, is continued, and the Clause in the fourteenth of *Charles* the Second, making which makes the Transportation of Wooll Felony, is hereby repealed. And for the Encouragement of the Importation of Wooll from *Ireland*, it is enacted, That it shall be lawful, for any Person, from the Places limited in the last recited Act, to import into *England* from *Ireland*, any Quantities of Wooll, to the Ports of *Whitehaven*, *Cumberland*, *Liverpoole*, *Chester*, *Bristol*, *Bridgewater*, *Minehead*, *Barnstaple* and *Biddiford*, and no other.

And the Commissioners of the Customs in *Ireland*, shall every Six Months transmit to the Commissioners of the Customs in *England*, an Account of all such Wooll as shall be from Time to Time exported from *Ireland*, the Quantity and Weight thereof, by whom, and in what Ships, and whither consigned, and the Names of the Persons signing the Certificates of the Landing in *England*, with the Quantity and Weight contained in the said Certificates, that the same may be compar'd with the Account appointed to be kept by the said Act, by the Commissioners of the Customs in *England*.

And all Certificates of Landing Wooll from *Ireland*, or from one Port to another in *England*, shall be written on Paper, and not Parchment, and the Quantities therein expressed shall not be obliterated, or interlined, upon any Pretence.

No Wooll to be carried near the Sea in the Night. And no Wooll, Fuller's Earth, &c. shall be laden or carried by Land, to or from any Places within the Counties adjoining to *Scotland*, or within Five Miles of the Sea-Coast, but between Sun-rising and Sun-setting, on Pain of forfeiting such Goods, Horses, and Carriages employed in the same; and no Ship or Vessel shall export the said Goods, on Pain of forfeiture of them and of the said Ship and Vessel, and treble the Value thereof.

with treble Costs of Suit; and the Inhabitants of the Penalty of Hundred, Port, or Liberty adjoining to *Scotland*, or to the the Hundred Sea-Coast, out of, or thro' which any Wooll, &c. shall thro' which be so carried or exported, shall forfeit Twenty Pounds, it passes. if the said Wooll be under the Value of Ten Pounds, and if of greater Value, then treble the Value thereof, with treble Costs of Suit; all which Pains and Forfeitures to be recovered by him who shall sue for the same by Action of Debt, Bill, Plaint or Information against the Inhabitants of such Hundred, Port or Liberty, out of, or thro' which the same shall be exported. And the Execution for the Informer, may be had against two or more of the Inhabitants; and the Justices of Peace, at their Quarter-Sessions, may tax the several Towns, Parishes, Villages, and Hamlets in the said Hundred, Port, or Place, as the Hundred is taxed in the Case of a Robbery; and the Justices of Peace of the County or Place where such Fact shall be committed, are empowered and required, at their General Quarter-Sessions, to levy the Penalties hereby charged, by an equal Assessment on the said Inhabitants, and to reimburse the Parties charged, in the same Manner as if there had been a Judgment at Law against the said Hundred, Port, or Liberty.

And all Persons who shall be aiding or assisting in Hundred to carrying or exporting Wooll, &c. out of the Realm, recover of Person being convicted thereof, shall suffer three Years Imprisonment, and the Owner of the Goods, and all Persons ed in the Exportation, shall portation. answer treble the Value of all Forfeitures as such Inhabitants shall be charged with, as also treble Costs of Suit, to be recovered by Action of Debt, Bill, Plaint, or Information, in the Courts at *Westminster*, by and in the Name of the Clerk of the Peace of the County or Place, without naming the Christian or Sir-name of the said Clerk of the Peace, which treble Value, and treble Cost, shall be for the only Use of the said Inhabitants; and notwithstanding the Death or Removal of the Clerk of the Peace, the Suit shall be prosecuted to Judgment and Execution, as might have been done if the Clerk of the Peace had lived who commenced the Suit.

And all Actions and Informations, prosecuted by Vir-Trial to be tue of this Act, shall be tried in any of his Majesty's in a Foreign Courts of Record, by a Jury of Freeholders summoned County. from any other County than that where the Fact shall be committed. And for encouraging Discoveries, the first three Persons concerned in any Exportation, who shall give Information to a Justice of Peace, of the Crimes aforesaid, whereby the Pains appointed by this Act, may

may be inflicted and recovered, (such Discoverers not being Owners of the Wooll, &c.) shall not suffer any of the said Pains or Punishments.

Provided, that if any Suit shall be commenced against a Justice of Peace, or other Person, for any Thing done in Pursuance of this Act, the Action shall be laid in the County where the Fact was done, and not elsewhere; and the Defendant may plead the General Issue, and give the special Matter in Evidence; and if the Plaintiff be Nonsuit, discontinue, &c. the Defendant shall have treble Costs, and every Prosecution on this Act, shall be within one Year after the Fact committed.

Remedy against Compositions.

Provided that if any Person entitled to the Forfeitures given by this Act, shall compound with any Hundred or P'are, for a lesser Sum than is hereby given, it shall be lawful afterwards, for any other Person to sue for and recover the same, as if no such Composition had been made, and the Person so compounding, shall suffer Five Years Imprisonment, without Bail or Mainprize.

Cruisers to prevent Exportation, &c.

And for the better preventing the Exportation of Wooll, it is further enacted, That the Admiralty shall appoint One Fifth Rate, Two Sixth Rates, and Four armed Sloops, constantly to Cruise off the *North Foreland*, to the Isle of *Wight*, to seize all Vessels which shall export Wooll, or carry prohibited Goods.

9 & 10 W. 3. c. 40.

Fuller's-earth.

No Fuller's Earth, or Scouring Clay, shall be exported into *Ireland*, *Scotland*, or any other Foreign Parts, on Pain that the Exporter shall forfeit One Shilling for every Pound Weight.

Wooll near the Coasts in *Kent* and *Sussex*, to be registered.

All Owners of Wooll, shorn, housed, or laid up within Ten Miles of the Sea, in *Kent* or *Sussex*, shall within Three Days after the Sheering thereof, give an exact Account in Writing, of the Number of Fleeces to the next adjoining Port, or Officer of the Customs, and the like Notice before they remove any Part thereof, with the Name and Abode of the Person to whom it is disposed, and the Place to which it is intended to be carried, and shall take a Certificate from the Officer, first entering the same, on Pain of Forfeiture thereof, and of Three Shillings for every Pound Weight of such Wooll, as if the same had been actually exported, and the Officers shall demand no more than Six Pence for every such Certificate, as aforesaid.

Bond not to sell Wooll to any one within Fifteen Miles of the Sea.

And no Person residing within Fifteen Miles of the Sea, in *Kent* or *Sussex*, shall buy any Wooll, before they enter into Bond to the King, with Sureties, that the Wooll they buy shall not be sold to any Person within Fifteen Miles of the Sea; and if any Wooll be found carrying

carrying towards the Sea, unless the same be entered, and Security given, it shall be forfeited, and also Three Shillings for every Pound Weight of such Wooll.

And no Wooll removed from the Place where it was first lodged after Sheering, within Ten Miles as aforesaid, shall, after the first removing, be lodged within Fifteen Miles of the Sea, in the Counties aforesaid, on Pain of forfeiting such Wooll if found, and if carried away, three Shillings per Pound, by the Owner.

And if any Person shall cause to be laid or hid, any Wooll within Fifteen Miles of the Sea, and not entred, it shall be seized and forfeited, and upon the Seizure thereof, the Person claiming the same, shall give Security, if cast, to pay treble Costs, besides the Pains aforesaid.

Provided, That if any Person shall be prosecuted for what he shall do in Pursuance of this Act, he may plead the General Issue, and give the special Matter in Evidence; and if the Plaintiff be Nonsuit, discontinue, &c. the Defendant shall have treble Cost.

The Forfeitures incurred by this Act, shall be distributed, one Third to the King, and the other two Thirds to the Use of such Persons as shall seize or sue for the same, by Bill, Plaint, or Information, in the Courts of Westminster.

And it shall be lawful for the King to cause any Person Prosecution guilty of transporting, or causing to be transported, any to be within Wooll, Wooll Fells, Fuller's Earth, or Scouring Clay, to Three Years. he sued and prosecuted at any Time within Three Years after the Offence, as Informations on other Statutes may be prosecuted.

The Owners of Wooll shorn or laid within Fifteen Miles of Scotland, to give the like Account of their Number of Fleeces, and of the Removal of the same, as those upon the Coasts of Kent and Sussex, to Persons appointed for that Purpose, under the like Pains, Penalties and Forfeitures, to be disposed and recovered as aforesaid. The Hundred of Winchelsea, in respect to the Forfeitures imposed by the 7 & 8 W. 3. cap. shall be deemed Two Hundreds, viz. the Part on one Side of the Arm of the Sea, as one Hundred, and the Part on the other, as one other entire Hundred. And the Forfeitures shall affect only that Part of the Hundred which lies on the same Side of the Arm of the Sea out of which the Exportation is made.

10 & 11 W.

3. c. 10.

No Wooll to be exported

After the 24th of June 1699, no Person shall export from Ireland, or convey, or cause to be exported out of, or from the but to Eng. Kingdom land.

Or any Wool-
len Manu-
facture.

Kingdom of *Ireland*, into any foreign Realm, State, or Parts whatsoever, other than to *England* or *Wales*.

Any Wooll, Wooll Fells, Shorlings, Mortlings, Wooll Flocks, Worsted Bays, or Woollen Yarn, Cloth, Serge, Bays, Kerseys, Says, Frizes, Druggets, Cloth-Serge, Shalloon, or any other Drapery Stuffs, or Woollen Manufactures, made up or mixed with Woollen, Wooll Flocks, or shall directly or indirectly load, or cause to be loaded, upon any Horse, Cart, or other Carriage, or load or lay on Board, or cause to be laden or laid on Board any Ship or Vessel belonging to *Ireland*, any such Wooll, &c. or any other Drapery or Woollen Manufactures, to the Intent to export or convey the same out of the said Kingdom of *Ireland*, or out of any Port or Place belonging to the same; or to the Intent that any Person should export the same out of the said Kingdom of *Ireland*, into any Ports or Places, except as aforesaid, on Pain to forfeit the same; and likewise 500*l.* for every such Offence. And every Ship, Barge, Boat, or other Vessel, wherein any of the said Commodities are shipped or laid on Board contrary to this Act, shall be forfeited, with all her Tackle, Apparel and Furniture. And the Masters and Mariners thereof, or any Porters, Carriers, Waggoners, Boatmen, or other Persons, knowing such Offence, and wittingly assisting therein, shall forfeit 40*l.* one Moiety to the Person who shall sue for the same by Bill, Plaint, or Information, in any Court of Record in *England* or *Ireland*; and the other Moiety to the Encouragement of setting up the Linnen Manufactures in *Ireland*, to be disposed of by the Court of Exchequer there, for that Use only.

And to prevent evading the Penalties, under Pretence of Prosecution in *Ireland*, it is enacted, That no Acquittal, or any Indictment, Information, &c. (unless the Offender be thereupon convicted) in *Ireland*, for any Offence against this Act, shall be pleaded or allowed in Bar or Delay of any Indictment, &c. in *England*.

Lawful to
seize Wooll
designed for
Transporta-
tion.

And it shall be lawful for any Person to seize, secure, and convey to his Majesty's next Warehouse, all such Wooll, &c. and Woollen Manufactures, as he shall happen to find, or discover to be laid on Board any Ship, Vessel or Boat, or to be brought, carried, or laid on Shoar, at or near the Sea, or any Navigable River or Water, to the Intent to be exported, or to be laden on any Horse, Cart, or other Carriage, to the Intent to be exported; And it shall also be lawful for any Person to seize and secure, all and every Ship, Hulk, Vessel, Barge or Boat, where-ever found, wherein any of the said Commodities shall be shipped or put on Board; and he shall be indemnified for so doing.

And

And for every Ship intended to sail from *Ireland*, to Bond to be export any of the said Commodities to *England*, Bond given for shall be given by two sufficient Persons, known Inhabi- landing *Irish* tants of, and residing in or near the Place where the Bond Wooll in *Eng-* is given, to the Chief Officer of the Customs in the *Port land*. or Place from whence the Ship sails, in double the Value of the Goods intended to be transported, before she shall be permitted to lade any of the Commodities aforesaid. With Condition, That if the said Ship or Vessel shall take on Board any of the said Goods in *Ireland*, they shall be brought by the same Ship or Vessel, to some of the Ports of *England* or *Wales*, and there put on Shoar, and shall pay the Customs and Duties (Danger of the Seas excepted) And every Ship or Vessel taking on Board any of the said Goods, until such Bond given, shall be forfeited, to be recovered and employed in Manner aforesaid.

And a Register shall be kept at the Custom-House in *London*, of all such Goods imported from *Ireland* into any of the Ports of *England* or *Wales*, with the Quantities, Qualities, Master and Owner's Name, and to whom consign'd.

All Cockets and Warrants for transporting the said Cockets and Goods from *Ireland* to this Kingdom, shall be written on Certificates. Paper, and not on Parchment, and signed by three of the chief Officers of the Port there. And all Certificates of landing the same in this Kingdom, shall be signed in like manner. And all the Goods, both at the shipping and landing, shall be viewed and examined by the Surveyor or Searcher, or Land-Waiter. And the exact Quantities and Qualities, Marks and Numbers, shall be indorsed upon the Cocket by which they were shipped, and also upon the Warrant for landing the same in *England*, and also upon the Certificates given for the discharging the said Bonds taken in *Ireland*.

The Commissioners of the Revenue, or Farmers of the Customs, or of the Revenue of *Ireland*, shall once every Six Months, or within Thirty Days after the End thereof, transmit to the Commissioners or Farmers of the Customs in *England*, the Quantities and Qualities of all such Goods as shall be exported from *Ireland*, and Duplicates of the Bonds taken for loading the same, and by whom, and in what Ships exported, and to what Port in *England* consigned, and the Names of the Persons signing the Certificates of the landing in *England*, and the Dates of the said Certificates, and where the same were laden, and also of the Quantities and Qualities, Marks and Numbers contained in the said Certificate, in order to be compared with the said registred Account to be kept in this Kingdom. And such Certificate shall be written on Paper, and not on Parchment, and the Quantities,

Ports in Ire-
land from
whence Irish
Wooll shall
be shipped.

tities, Qualities, Marks, and Numbers therein expressed, shall not be obliterated or interlined upon any Pretence whatsoever.

And all such Goods exported from *Ireland*, shall be shipped off and entred at the Ports of *Dublin, Waterford, Youghall, Kingfale, Cork, and Drogheda*, and from no other Port or Place : Nor shall the same be imported into *England or Wales*, but at the Ports of *Biddiford, Barnstable, Minehead, Bridgewater, Bristol, Milford Haven, Chester and Liverpool*.

And for preventing the Exportation of such Goods from *Ireland* to Foreign Markets, it is further enacted, That if any of the Commissioners or Farmers of the Revenue of *Ireland*, or the Officers employed under them, shall take, or suffer to be taken, any Entry outward, or sign any Cocket, Warrant, or Sufferance, for the shipping and exporting any such Goods as aforesaid, into any Kingdom or State whatever (except as aforesaid) or wittingly or wittingly permit, contrive, or suffer the same to be done, contrary to this Act, such Commissioner, Farmer or Officer, so offending, or otherwise failing or neglecting their Duties required by this Act, shall, for every such Offence or Neglect, forfeit 500 *l.* to be recovered and employed as aforesaid.

Trial.

And every Offence contrary to this Act, may be heard and determined in the County where any of the said Goods shall be laden on Board, or else in the County (either in *England or Ireland*) where the Offender shall be apprehended, or where any such Goods, Ships or Vessels shall be seized or brought in, and such Trial shall have the same Effect as if the same Offence had been wholly committed in the same County.

If any Person shall be sued for what he shall do in Pursuance of this Act, he may file common Bail, or enter a common Appearance, and plead the General Issue, &c.

And if the Plaintiff be cast, discontinue, &c. the Defendant shall have treble Costs and Damages for the Molestation.

It shall be lawful to import from the said Ports of *Dublin, Waterford, Youghall, Kingfale, Cork and Drogheda*, any Wooll, Wooll Fells, &c. Cloth, Serges, &c. or any other Drapery made or mixed with Wooll or Wool-Flocks, and Manufactured in *Ireland*, into such Ports in this Kingdom as aforesaid, so as Notice be first given to the Commissioners or chief Managers of the Customs in this Kingdom, or to the chief Customer or Collector of the Port to which the same is intended to be brought, of the Quantity, Quality, Package, Marks, and Numbers thereof,

with

with the Name of the Ship and Master, and the Port to which they are designed, so as Bond be first entred into to the King, with one or more sufficient Sureties, in treble the Value of the Goods intended to be imported, and the same (the Dangers of the Seas excepted) shall be landed accordingly, and so as a Licence be first taken under the Hands of Three of the Commissioners of the Customs, or from the chief Collector or Collectors where such Bond is given for the landing and importing thereof, which Licence they are required to grant *Gratis*, upon Demand.

And the Penalties and Forfeitures of the Bonds, which Penalties assigned by this Act, or any other former Law or Usage are to be given in *Ireland*, for any Wooll, or any the Commodities aforesaid, intended to be exported from thence to this Kingdom, shall not on any Consideration whatever be granted or assigned to any Person whatever, and all such Grants and Assignments shall be void.

The Admiralty of *England* shall appoint two Ships of the fifth Rate, and two Ships of the sixth Rate, and eight armed Sloops, constantly to Cruize between the North of *Ireland* and *Scotland*, with Orders to take all Ships, Vessels and Boats which shall export any Wooll, with Intent to carry it into Foreign Parts; and the Admiralty shall send a List of all such Ships and Sloops, and the Names of the Commanders, as also true Copies of their several Instructions, to the Commissioners of the Customs in *London*, within Ten Days after such Orders shall be given.

All Wooll, Ships, Vessels or Boats, so taken, shall be forfeited, and shall be lodged in the King's Warhouse, in the Port where they shall be seized or brought, till Condemnation, and then, after Twenty one Days publick Notice given in Writing at the said Port, and at the Royal Exchange, they shall, with their Guns and Tackle, Furniture and Apparel, be sold by Inch of Candle, to the best Bidder. And one fourth Part of the Produce of the Wooll, Ships, Vessels and Boats, shall go to the Commanders, one fourth to the Officers of the Ships or Sloops that took the same; one Fourth to the Mariners, to be equally divided between them by the Collectors of the said Port; and the other fourth Part to the King, after a Deduction made out of the last fourth Part, of all Charges of Prosecution and Condemnation.

And every Commander in such Ship or Sloop, neglecting his Duty by this Act required, or compounding for any Wooll, Ship, Vessel or Boat, or conniving at the Exportation of any Wooll, shall forfeit his Pay, and suffer Six Months Imprisonment, and be incapable of Serving the King in any Office in the Navy.

After

No Wooll, or Woollen Manufacture, the Product of the Plantations, to be exported from thence.

Prosecutions;
on the Wooll
Acts.

After the 1st of December, 1699, no Wooll, Wooll Fells, Shortlings, Mortlings, Wooll Flocks, Worsted Bays, or Woollen Yarn, Cloth, Serge, Bays, Kerseys, Says, Frizes, Druggets, Cloth-Serges, Shalloons, or any other Drapery Stuffs, or Woollen Manufactures, made or mixed with Wooll, or Wooll Flocks, being of the Product or Manufacture of any of the *English* Plantations in *America*, shall be loaden or laid on Board in any Ship or Vessel in any of the said *English* Plantations, on any Pretence whatsoever: Nor shall any such Wooll, &c. or Manufactures, be loaden upon any Horse, Cart, or other Carriage, to the Intent to be exported or conveyed out of the said *English* Plantations, to any other of the said Plantations, or to any other Place whatsoever, upon the like Pains and Forfeitures as are provided by this Act for the like Offences committed in *Ireland*: And the Governors and Officers of the Customs and Revenue in the said Plantations, are required to see this Act put in Execution there.

And every Offender against this, or any other Act of Parliament, prohibiting the Exportation of Wooll, may be prosecuted by Action, Suit or Information, in any of the Courts of Record at *Westminster*, and thereupon a *Capias* shall issue, the first Process specifying the Sum, or the Penalty sued for, and such Person shall give sufficient Bail by natural born Subjects or Denizens, to appear at the Return of such Writ, and at the Time of Appearance shall give like Bail to pay the Forfeitures and Pains incurred, in Case he shall be convicted, or yield his Body to Prison.

The Lord Lieutenant, Lord Deputy, or Lord Justices of *Ireland*, are required to give Directions in Council, that this Act shall be given in Charge by the several Judges at the Assizes held in that Kingdom; and the said Judges are required from Time to Time, to take particular Accounts throughout their Circuits, of the due Execution of this Act, and at their Return from their Circuits, acquaint the said Lord Lieutenant in Council therewith, of which the said Lord Lieutenant, &c. shall once every Year, lay a particular Account in Writing, under his or their Hands, before the King in Council.

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OF THE

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